

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 965

Introduced by Revenue Committee: Janssen, 15, Chairperson; Burling, 33; Cornett, 45; Dierks, 40; Langemeier, 23; Preister, 5; Raikes, 25; White, 8.

Read first time January 15, 2008

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-115, 77-1201, 77-1202.01, 77-1210, 77-1214, 77-1219,
3 77-1230, 77-1233.02, 77-1233.03, and 77-1734.01, Reissue
4 Revised Statutes of Nebraska, sections 77-1234, 77-1502,
5 and 77-1504.01, Revised Statutes Cumulative Supplement,
6 2006, and sections 76-214, 77-1233.04, 77-1233.06,
7 77-1736.06, 77-4105, and 77-5725, Revised Statutes
8 Supplement, 2007; to change provisions relating to
9 real estate tax statements, county assessors, tangible
10 personal property tax assessment, refunds, property tax
11 protests, and Tax Commissioner duties; to eliminate a
12 provision relating to a report; to provide operative
13 dates; to repeal the original sections; to outright

LB 965

LB 965

1 repeal section 77-202.13, Revised Statutes Supplement,
2 2007; and to declare an emergency.
3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-214, Revised Statutes Supplement,
2 2007, is amended to read:

3 76-214 (1) Every grantee who has a deed to real estate
4 recorded ~~which was executed after July 21, 1965,~~ and every
5 purchaser of real estate who has a memorandum of contract or
6 land contract recorded ~~which was executed after July 16, 1994,~~
7 shall, at the time such deed, memorandum of contract, or land
8 contract is presented for recording, file with the register of
9 deeds a completed statement as prescribed by the Tax Commissioner.
10 ~~For all deeds executed and recorded after January 1, 1986, and~~
11 ~~for all memoranda of contract and land contracts executed and~~
12 ~~recorded after July 16, 1994, and prior to January 1, 2001, the~~
13 ~~statement shall contain the social security number of the grantee~~
14 ~~or purchaser, if living, or the federal employer identification~~
15 ~~number of the grantee or purchaser.~~ For all deeds and all
16 memoranda of contract and land contracts ~~executed and recorded~~
17 on and after January 1, 2001, the statement shall not require
18 the social security number of the grantee or purchaser or the
19 federal employer identification number of the grantee or purchaser.
20 This statement may require the recitation of any information
21 contained in the deed, memorandum of contract, or land contract,
22 the total consideration paid, the amount of the total consideration
23 attributable to factors other than the purchase of the real estate
24 itself, and other factors which may influence the transaction.
25 This statement shall be signed and filed by the grantee, the

1 purchaser, or his or her authorized agent. The statement form
2 shall be designed so that multiple copies are generated. Beginning
3 January 1, 2001, the register of deeds shall forward the original
4 copy of the statement to the Department of Revenue, two copies
5 of the statement shall be provided to the county assessor, and
6 a copy shall be provided to the grantee or purchaser or his or
7 her agent. The register of deeds shall forward the statement to
8 the county assessor. If the grantee or purchaser fails to furnish
9 the prescribed statement, the register of deeds shall not record
10 the deed, memorandum of contract, or land contract. The register
11 of deeds shall indicate on the statement the book and page or
12 computer system reference where the deed, memorandum of contract,
13 or land contract is recorded and shall immediately forward the
14 statement to the county assessor. The county assessor shall process
15 the statement according to the instructions of the Property Tax
16 Administrator and shall, ~~when directed,~~ pursuant to the rules and
17 regulations of the Tax Commissioner, forward the statement to the
18 Tax Commissioner. ~~Except as provided in subsection (2) of this~~
19 ~~section,~~ the statement and the information contained therein shall
20 be confidential and available to tax officials only.

21 (2) Any person shall have access to the statements at
22 the office of the Tax Commissioner or county assessor which have
23 been filed on or after January 1, 1995, and if the statements are
24 available and have not been disposed of pursuant to the records
25 retention and disposition schedule as approved by the State Records

1 Administrator.

2 Sec. 2. Section 77-115, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-115 County assessor includes an elected or appointed
5 county assessor or a county clerk who is an ex officio county
6 assessor. In counties in which the state has assumed the assessment
7 function, the Property Tax Administrator or his or her designee
8 performs the duties and has the authority of the county assessor.

9 Sec. 3. Section 77-1201, Reissue Revised Statutes of
10 Nebraska, is amended to read:

11 77-1201 All tangible personal property in this state
12 subject to taxation shall be assessed as of January 1 at 12:01
13 a.m., which assessment shall be used as a basis of taxation until
14 the next assessment. A complete list of all taxable tangible
15 personal property held or owned on the assessment date shall be
16 made as follows:

17 (1) Every person shall list all his or her taxable
18 tangible personal property as defined in section 77-105 having tax
19 situs in the State of Nebraska;

20 (2) The taxable tangible personal property of a minor
21 child shall be listed by the following: (a) His or her guardian;
22 (b) if he or she has no guardian, by his or her parent, if living;
23 and (c) if neither parent is living, by the person having such
24 property in charge;

25 (3) The taxable tangible personal property of any other

1 person under guardianship, by his or her guardian or, if he or she
2 has no guardian, by the person having charge of such property;

3 (4) The taxable tangible personal property of a person
4 for whose benefit it is held in trust, by the trustee, and of
5 the estate of a deceased person, by the personal representative or
6 administrator;

7 (5) The taxable tangible personal property of
8 corporations the assets of which are in the hands of a receiver,
9 by such a receiver;

10 (6) The taxable tangible personal property of
11 corporations, by the president or the proper agent or officer
12 thereof;

13 (7) The taxable tangible personal property of a firm or
14 company, by a partner, limited liability company member, or agent
15 thereof;

16 (8) The taxable tangible personal property of
17 manufacturers and others in the hands of an agent, by and in the
18 name of such agent; and

19 (9) All leased taxable tangible personal property shall
20 be reported, by itemizing each article, by lessor as owner or
21 lessee as agent.

22 Sec. 4. Section 77-1202.01, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-1202.01 In preparing the tax list, each county
25 assessor shall enter in a separate column, opposite the name of

1 each person, the person's post office address and the number of the
2 school and road districts in which the taxable tangible personal
3 property of such person is assessable.

4 Sec. 5. Section 77-1210, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-1210 ~~Personal~~ Taxable tangible personal property in
7 transit shall be listed and assessed in the tax district where the
8 owner resides, but if such property is intended for a business, it
9 shall be listed and assessed in the tax district where the property
10 of such business is required to be listed.

11 Sec. 6. Section 77-1214, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-1214 It shall be the duty of any county assessor,
14 sheriff, constable, city council member, and village trustee to at
15 once inform the county treasurer of the making or attempted making
16 of any sale, levy of attachment, or removal of taxable tangible
17 personal property known to him or her. It shall be the duty of
18 the county treasurer to forthwith proceed with the collection of
19 the tax when such acts become known to him or her in any manner.
20 Any personal property tax shall be due and collectible, including
21 all taxable tangible personal property then assessed upon which the
22 tax shall be computed on the basis of the last preceding levy, and
23 a distress warrant shall be issued when (1) any person attempts
24 to sell all or a substantial part of his or her taxable tangible
25 personal property, (2) a levy of attachment is made upon taxable

1 tangible personal property, or (3) a person attempts to remove or
2 removes taxable tangible personal property from the county.

3 Sec. 7. Section 77-1219, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-1219 It shall be the duty of the county assessor,
6 when required by any person, to give a certificate of assessment
7 of taxable tangible personal property showing the amount, kind,
8 location, and net book value of the property assessed, and such
9 certificate shall be evidence of the legal assessment of such
10 property for the year.

11 Sec. 8. Section 77-1230, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-1230 (1) Whenever a person files an amended federal
14 income tax return or ~~his or her~~ whenever a person's return is
15 changed or corrected by the Internal Revenue Service or other
16 competent authority and the amendment, change, or correction
17 affects the Nebraska adjusted basis of the person's taxable
18 tangible personal property, such person shall file an amended
19 list of taxable tangible personal property subject to taxation with
20 the county assessor. The person shall file the amended list within
21 ninety days after the filing of the amended federal return or
22 within ninety days after the date the change or correction becomes
23 final.

24 (2) Within the same tax year or the three previous tax
25 years, a person may file an amended list of taxable tangible

1 personal property subject to taxation upon discovery of errors or
2 omissions on his or her filed list.

3 (3) If an amended list of taxable tangible personal
4 property subject to taxation is filed, the county assessor shall
5 accept or reject the proposed amendment within fifteen days after
6 filing. The county assessor shall notify the person, on a form
7 prescribed by the Property Tax Administrator, of the action taken,
8 the penalty, if any, and the rate of interest. The notice shall
9 also state the person's appeal rights and appeal procedures, which
10 shall be the same as provided in section 77-1233.06. Such notice
11 shall be given by first-class mail addressed to such person's
12 last-known address.

13 (4) Whenever changes are made to a taxable tangible
14 personal property return pursuant to this section, the county
15 assessor shall correct the assessment roll and tax list, if
16 necessary, to reflect such changes.

17 (5) If the amendment, change, or correction results in
18 taxable tangible personal property becoming exempt or reduces the
19 net book value of the property for an income tax year, a refund
20 shall be paid pursuant to section 77-1734.01. the person may
21 file a written claim for a refund of property tax paid relating
22 to the federal income tax changes with the county treasurer. If
23 the amended list and the claim for refund are filed within the
24 ninety-day period, the claim shall be considered as timely filed
25 notwithstanding any other provision of law regarding the period

1 ~~during which refunds could otherwise be claimed. The claim shall be~~
2 ~~processed according to section 77-1734.01.~~

3 ~~(3)~~ (6) If the amendment, change, or correction results
4 in an increase in the net book value of the taxable tangible
5 personal property or makes other tangible personal property
6 taxable, the county assessor shall compute the additional tax due,
7 along with interest, based on the amended listing. Interest shall
8 be computed from the dates the tax would have been delinquent if
9 the property had been listed on or before May 1 of the appropriate
10 year. If the amended listing is filed within the ninety-day period,
11 no additional penalties shall be added. If the listing is not filed
12 within the ninety-day period, the property shall be subject to a
13 penalty pursuant to subsection (4) of section 77-1233.04.

14 Sec. 9. Section 77-1233.02, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 77-1233.02 The county assessor with the aid of his or her
17 deputy and assistants shall carefully examine, check, and verify
18 all taxable tangible personal property tax returns. The assessor
19 may make such investigation, examination, and inspection of the
20 property set out in a return and examine under oath the person
21 making the return as to his or her books, records, and papers in
22 order to enable the assessor to determine that all taxable tangible
23 personal property of the taxpayer is listed for taxation at its net
24 book value.

25 Sec. 10. Section 77-1233.03, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 77-1233.03 The county assessor shall have general
3 supervision over and direction of the assessment of all personal
4 property in his or her county. He or she shall advise and instruct
5 all deputies and assistants as to their duties and shall require
6 of them that the assessment of property be uniform throughout the
7 county and that property be assessed as directed by law.

8 The county assessor may, in extending a value on any item
9 of taxable tangible personal property, reject all values that fall
10 below two dollars and fifty cents and extend all values of two
11 dollars and fifty cents or more to the next higher five dollars or
12 multiples thereof, making all valuations end in zero or five.

13 Sec. 11. Section 77-1233.04, Revised Statutes Supplement,
14 2007, is amended to read:

15 77-1233.04 (1) The county assessor shall list and value
16 at net book value any item of taxable tangible personal property
17 omitted from a personal property return of any taxpayer. The county
18 assessor shall change the reported valuation of any item of taxable
19 tangible personal property listed on the return to conform the
20 valuation to net book value. If a taxpayer fails or refuses to
21 file a personal property return, the assessor shall, on behalf
22 of the taxpayer, file a personal property return which shall list
23 and value all of the taxpayer's taxable tangible personal property
24 at net book value. The county assessor shall list or change the
25 valuation of any item of taxable tangible personal property for the

1 current taxing period and the three previous taxing periods or any
2 taxing period included therein.

3 (2) The taxable tangible personal property so listed and
4 valued shall be taxed at the same rate as would have been imposed
5 upon the property in the tax district in which the property should
6 have been returned for taxation.

7 (3) Any valuation added to a personal property return or
8 added through the filing of a personal property return, after May 1
9 and on or before July 31 of the year the property is required to be
10 reported, shall be subject to a penalty of ten percent of the tax
11 due on the value added.

12 (4) Any valuation added to a personal property return or
13 added through the filing of a personal property return, on or after
14 August 1 of the year the property is required to be reported, shall
15 be subject to a penalty of twenty-five percent of the tax due on
16 the value added.

17 (5) Interest shall be assessed upon both the tax and the
18 penalty at the rate specified in section 45-104.01, as such rate
19 may from time to time be adjusted by the Legislature, from the date
20 the tax would have been delinquent until paid.

21 (6) Whenever valuation changes are made to a personal
22 property return or a personal property return is filed pursuant
23 to this section, the county assessor shall correct the assessment
24 roll and tax list, if necessary, to reflect such changes. Such
25 corrections shall be made for the current taxing period and

1 the three previous taxing periods or any taxing period included
2 therein. If the change results in a decreased taxable valuation on
3 the personal property return and the personal property tax has been
4 paid prior to a correction pursuant to this section, the taxpayer
5 may request a refund or credit of the tax in the same manner
6 prescribed in section 77-1734.01, except that such request shall be
7 made within three years after the date the tax was due.

8 Sec. 12. Section 77-1233.06, Revised Statutes Supplement,
9 2007, is amended to read:

10 77-1233.06 For purposes of section 77-1233.04:

11 (1) The county assessor shall notify the taxpayer, on a
12 form prescribed by the Tax Commissioner, of the action taken, the
13 penalty, and the rate of interest. The notice shall also state
14 the taxpayer's appeal rights and the appeal procedures. Such notice
15 shall be given by first-class mail addressed to such taxpayer's
16 last-known address. The entire penalty and interest shall be waived
17 if the omission or failure to report any item of taxable tangible
18 personal property was for the reason that the property was timely
19 reported in the wrong tax district;

20 (2) The taxpayer may appeal the action of the county
21 assessor, either as to the valuation or the penalties imposed,
22 to the county board of equalization within thirty days after the
23 date of notice. The taxpayer shall preserve his or her appeal by
24 filing a written appeal with the county clerk in the same manner
25 as prescribed for protests in section 77-1502. The action of the

1 county assessor shall become final unless a written appeal is filed
2 within the time prescribed;

3 (3) The action of the county board of equalization, in
4 an appeal of the penalties imposed, shall be limited to correcting
5 penalties which were wrongly imposed or incorrectly calculated. The
6 county board of equalization shall have no authority to waive or
7 reduce any penalty which was correctly imposed and calculated. The
8 entire penalty and interest on the penalty shall be waived if the
9 omission or failure to report any item of taxable tangible personal
10 property was for the reason that the property was timely reported
11 in the wrong tax district;

12 (4) Upon ten days' notice to the taxpayer, the county
13 board of equalization shall set a date for hearing the appeal
14 of the taxpayer. The county board of equalization shall make its
15 determination on the appeal within thirty days after the date
16 of hearing. The county clerk shall, within seven days after the
17 determination of the county board, send notice to the taxpayer and
18 the county assessor, on forms prescribed by the Tax Commissioner,
19 of the action of the county board. Appeal may be taken within
20 thirty days after the decision of the county board of equalization
21 to the Tax Equalization and Review Commission; and

22 (5) Taxes and penalties assessed for the current year,
23 if not delinquent, shall be certified to the county treasurer
24 and collected as if the property had been properly reported for
25 taxation, except that separate tax statements may be mailed.

1 Taxes and penalties assessed for the current year, if delinquent,
2 and taxes and penalties assessed for prior years shall be
3 certified to the county treasurer, and the taxes, penalties,
4 and interest thereon shall be due and collectible immediately upon
5 certification. Collection procedures shall be started immediately
6 regardless of the provisions of any other statute to the contrary.

7 Sec. 13. Section 77-1234, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 77-1234 It shall be the duty of the county boards and
10 county assessors to notify the county attorney of the proper county
11 of all willful violations of the provisions with respect to listing
12 of taxable tangible personal property for taxation known to them or
13 any of them.

14 Sec. 14. Section 77-1502, Revised Statutes Cumulative
15 Supplement, 2006, is amended to read:

16 77-1502 (1) The county board of equalization shall meet
17 for the purpose of reviewing and deciding written protests filed
18 pursuant to this section beginning on or after June 1 and ending
19 on or before July 25 of each year. Protests regarding real property
20 shall be signed and filed after the county assessor's completion
21 of the real property assessment roll required by section 77-1315
22 and on or before June 30. For protests of real property, a
23 protest shall be filed for each parcel. Protests regarding tangible
24 personal property shall be signed and filed ~~on or before the last~~
25 ~~date for filing the return required by section 77-1229.~~ returns

1 filed pursuant to section 77-1229 from January 1 through May 1,
2 shall be signed and filed on or before June 30. The county board
3 in a county with a population of more than one hundred thousand
4 inhabitants based upon the most recent federal decennial census may
5 adopt a resolution to extend the deadline for hearing protests from
6 July 25 to August 10. The resolution must be adopted before July
7 25 and it will affect the time for hearing protests for that year
8 only. By adopting such resolution, such county waives any right to
9 petition the Tax Equalization and Review Commission for adjustment
10 of a class or subclass of real property under section 77-1504.01
11 for that year.

12 (2) Each protest shall be signed and filed in triplicate
13 with the county clerk of the county where the property is assessed.
14 The protest shall contain or have attached a statement of the
15 reason or reasons why the requested change should be made and a
16 description of the property to which the protest applies. If the
17 property is real property, a description of each parcel shall be
18 provided. If the property is tangible personal property, a physical
19 description of the property under protest shall be provided. If
20 the protest does not contain or have attached the statement of
21 the reason or reasons for the protest or the description of the
22 property, the protest shall be dismissed by the county board of
23 equalization.

24 (3) No hearing of the county board of equalization on
25 a protest filed under this section shall be held before a single

1 commissioner or supervisor.

2 (4) The county clerk or county assessor shall prepare a
3 separate report on each protest. The report shall include (a) a
4 description of the property to which the protest applies, (b) any
5 recommendation of the county assessor for action on the protest,
6 (c) if a referee is used, the recommendation of the referee, (d)
7 the date the county board of equalization heard the protest, (e)
8 the decision made by the county board of equalization, (f) the date
9 of the decision, and (g) the date notice of the decision was mailed
10 to the protester. The report shall contain, or have attached to
11 it, a statement, signed by the chairperson of the county board of
12 equalization, describing the basis upon which the board's decision
13 was made. The report shall have attached to it a copy of that
14 portion of the property record file which substantiates calculation
15 of the protested value unless the county assessor certifies to the
16 county board of equalization that a copy is maintained in either
17 electronic or paper form in his or her office. One copy of the
18 report, if prepared by the county clerk, shall be given to the
19 county assessor on or before August 2. The county assessor shall
20 have no authority to make a change in the assessment rolls until
21 there is in his or her possession a report which has been completed
22 in the manner specified in this section. If the county assessor
23 deems a report submitted by the county clerk incomplete, the county
24 assessor shall return the same to the county clerk for proper
25 preparation.

1 (5) On or before August 2, or on or before August 18
2 in a county that has adopted a resolution to extend the deadline
3 for hearing protests, the county clerk shall mail to the protester
4 written notice of the board's decision. The notice shall contain
5 a statement advising the protester that a report of the board's
6 decision is available at the county clerk's or county assessor's
7 office, whichever is appropriate, and that a copy of the report may
8 be used to complete an appeal to the Tax Equalization and Review
9 Commission.

10 Sec. 15. Section 77-1504.01, Revised Statutes Cumulative
11 Supplement, 2006, is amended to read:

12 77-1504.01 (1) Unless the county has adopted a resolution
13 to extend the deadline for hearing protests under section 77-1502,
14 after completion of its actions and based upon the hearings
15 conducted pursuant to sections 77-1502 and 77-1504, a county
16 board of equalization may petition the Tax Equalization and Review
17 Commission to consider an adjustment to a class or subclass of
18 real property within the county. Petitions must be filed with the
19 commission on or before July 26.

20 (2) The commission shall hear and take action on a
21 petition filed by a county board of equalization on or before
22 August 10. Hearings held pursuant to this section may be held by
23 means of videoconference. The burden of proof is on the petitioning
24 county to show that failure to make an adjustment would result
25 in values that are not equitable and in accordance with the law.

1 At the hearing the commission may receive testimony from any
2 interested person.

3 (3) After a hearing the commission shall, within the
4 powers granted in section 77-5023, enter its order based on
5 evidence presented to it at such hearing and the hearings held
6 pursuant to section 77-5022 for that year. The order shall specify
7 the percentage increase or decrease and the class or subclass of
8 real property affected or any corrections or adjustments to be made
9 to the class or subclass of real property affected. When issuing
10 an order to adjust a class or subclass of real property, the
11 commission may exclude individual properties from that order whose
12 value has already been adjusted by a county board of equalization
13 in the same manner as the commission directs in its order. On or
14 before August 10 of each year, the commission shall send its order
15 by certified mail to the county assessor and by regular mail to the
16 county clerk and chairperson of the county board.

17 (4) The county assessor shall make the specified changes
18 to each item of property in the county as directed by the
19 order of the commission. In implementing such order, the county
20 assessor shall adjust the values of the class or subclass that
21 is the subject of the order. For properties that have already
22 received an adjustment from the county board of equalization,
23 an additional adjustment may be made so that total adjustments
24 made are equal to the commission's ordered adjustment and no
25 additional adjustment shall be made applying the commission's

1 order, but such an exclusion from the commission's order shall
2 not preclude adjustments to those properties for corrections or
3 omissions. The county assessor of the county adjusted by an order
4 of the commission shall recertify the abstract of assessment to the
5 Property Tax Administrator on or before August 20.

6 Sec. 16. Section 77-1734.01, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-1734.01 In case of payment made of any property taxes
9 or any payments in lieu of taxes with respect to property as a
10 result of a clerical error or honest mistake or misunderstanding,
11 on the part of a county or other political subdivision of the state
12 or any taxpayer, the county treasurer to whom the tax was paid may
13 shall refund or credit that portion of the tax paid as a result of
14 the clerical error or honest mistake or misunderstanding. A claim
15 for a refund pursuant to this section shall be made in writing to
16 the county treasurer to whom the tax was paid within three years
17 after the date the tax was due. Before the refund ~~or credit~~ may
18 be is made, the county treasurer shall receive verification from
19 the county assessor or other taxing official that such error or
20 mistake was made, and the ~~claim for~~ refund ~~or credit~~ shall be
21 submitted to the county board. ~~The county board shall pass upon~~
22 ~~the claim as any other claim made against the county.~~ The refund
23 shall be made in the manner prescribed in section 77-1736.06. The
24 ~~claim for a refund or credit pursuant to this section shall be~~
25 ~~made in writing to the county treasurer to whom the tax was paid~~

1 ~~within two years from the date the tax was due. The ordering of~~
2 ~~a refund or credit by the county board pursuant to this section~~
3 ~~shall not have a dispositional effect on any similar claim for~~
4 ~~refund or credit made by another taxpayer. Upon verification, the~~
5 ~~county board shall approve the claim. The refund shall be made~~
6 ~~in the manner prescribed in section 77-1736.06. Such refund shall~~
7 ~~not have a dispositional effect on any similar refund for another~~
8 ~~taxpayer.~~ This section may not be used to challenge the valuation
9 of property, the equalization of property, or the constitutionality
10 of a tax.

11 Sec. 17. Section 77-1736.06, Revised Statutes Supplement,
12 2007, is amended to read:

13 77-1736.06 The following procedure shall apply when
14 making a property tax refund:

15 (1) Within thirty days of the entry of a final
16 nonappealable order, an unprotested determination of a county
17 assessor, an unappealed decision of a county board of equalization,
18 or other final action requiring a refund of real or personal
19 property taxes paid ~~or other action approving a refund or,~~
20 for property valued by the state, within thirty days of a
21 recertification of value by the Property Tax Administrator pursuant
22 to section 77-1775 or 77-1775.01, the county assessor shall
23 determine the amount of refund due the person entitled to the
24 refund, certify that amount to the county treasurer, and send a
25 copy of such certification to the person entitled to the refund.

1 Within thirty days from the date the county assessor certifies
2 the amount of the refund, the county treasurer shall notify each
3 political subdivision of its respective share of the refund, except
4 that for any political subdivision whose share of the refund is two
5 hundred dollars or less, the county board may waive this notice
6 requirement. Notification shall be by first-class mail, postage
7 prepaid, to the last-known address of record of the political
8 subdivision. The county treasurer shall pay the refund from funds
9 in his or her possession belonging to any political subdivision
10 which received any part of the tax or penalty being refunded. If
11 sufficient funds are not available or the political subdivision,
12 within thirty days of the mailing of the notice by the county
13 treasurer if applicable, certifies to the county treasurer that a
14 hardship would result and create a serious interference with its
15 governmental functions if the refund of the tax or penalty is paid,
16 the county treasurer shall register the refund or portion thereof
17 which remains unpaid as a claim against such political subdivision
18 and shall issue the person entitled to the refund a receipt for
19 the registration of the claim. The certification by a political
20 subdivision declaring a hardship shall be binding upon the county
21 treasurer;

22 (2) The refund of a tax or penalty or the receipt for
23 the registration of a claim made or issued pursuant to this section
24 shall be satisfied in full as soon as practicable and in no event
25 later than five years from the date the final order or other action

1 approving a refund is entered. The governing body of the political
2 subdivision shall make provisions in its budget for the amount of
3 any refund or claim to be satisfied pursuant to this section. If a
4 receipt for the registration of a claim is given:

5 (a) Such receipt shall be applied to satisfy any tax
6 levied or assessed by that political subdivision next falling due
7 from the person holding the receipt after the sixth next succeeding
8 levy is made on behalf of the political subdivision following the
9 final order or other action approving the refund; and

10 (b) To the extent the amount of such receipt exceeds
11 the amount of such tax liability, the unsatisfied balance of the
12 receipt shall be paid and satisfied within the five-year period
13 prescribed in this subsection from a combination of a credit
14 against taxes anticipated to be due to the political subdivision
15 during such period and cash payment from any funds expected to
16 accrue to the political subdivision pursuant to a written plan to
17 be filed by the political subdivision with the county treasurer
18 no later than thirty days after the claim against the political
19 subdivision is first reduced by operation of a credit against taxes
20 due to such political subdivision.

21 If a political subdivision fails to fully satisfy the
22 refund or claim prior to the sixth next succeeding levy following
23 the entry of a final nonappealable order or other action approving
24 a refund, interest shall accrue on the unpaid balance commencing on
25 the sixth next succeeding levy following such entry or action at

1 the rate set forth in section 45-103;

2 (3) The county treasurer shall mail the refund or the
3 receipt by first-class mail, postage prepaid, to the last-known
4 address of the person entitled thereto. Multiple refunds to the
5 same person may be combined into one refund or credit. If a refund
6 is not claimed by June 1 of the year following the year of mailing,
7 the refund shall be canceled and the resultant amount credited to
8 the various funds originally charged;

9 (4) When the refund involves property valued by the
10 state, the Tax Commissioner shall be authorized to negotiate a
11 settlement of the amount of the refund or claim due pursuant to
12 this section on behalf of the political subdivision from which
13 such refund or claim is due. Any political subdivision which does
14 not agree with the settlement terms as negotiated may reject such
15 terms, and the refund or claim due from the political subdivision
16 then shall be satisfied as set forth in this section as if no such
17 negotiation had occurred;

18 (5) In the event that the Legislature appropriates state
19 funds to be disbursed for the purposes of satisfying all or any
20 portion of any refund or claim, the Tax Commissioner shall order
21 the county treasurer to disburse such refund amounts directly to
22 the persons entitled to the refund in partial or total satisfaction
23 of such persons' claims. The county treasurer shall disburse such
24 amounts within forty-five days after receipt thereof; and

25 (6) If all or any portion of the refund is reduced by

1 way of settlement or forgiveness by the person entitled to the
2 refund, the proportionate amount of the refund that was paid by
3 an appropriation of state funds shall be reimbursed by the county
4 treasurer to the State Treasurer within forty-five days after
5 receipt of the settlement agreement or receipt of the forgiven
6 refund. The amount so reimbursed shall be credited to the General
7 Fund.

8 Sec. 18. Section 77-4105, Revised Statutes Supplement,
9 2007, is amended to read:

10 77-4105 (1) A taxpayer who has signed an agreement under
11 section 77-4104 may elect to determine taxable income for purposes
12 of the Nebraska income tax using the sales factor only. The
13 election may be made for the year during which the application was
14 filed and for each year thereafter through the eighth year after
15 the end of the entitlement period. The election shall be made for
16 the year of the election by computing taxable income using the
17 sales factor only on the tax return.

18 (2) A taxpayer who has signed an agreement under section
19 77-4104 shall receive the incentive provided in this subsection
20 if the agreement contains one or more projects which together
21 will result in the investment in qualified property of at least
22 ten million dollars and the hiring of at least one hundred new
23 employees. Such ten-million-dollar investment and hiring of at
24 least one hundred new employees shall be considered a required
25 level of investment and employment for this subsection and for the

1 recapture of personal property tax only.

2 The following property used in connection with such
3 project or projects and acquired by the taxpayer, whether by
4 lease or purchase, after the date the application was filed shall
5 constitute separate classes of personal property:

6 (a) Turbine-powered aircraft, including turboprop,
7 turbojet, and turbofan aircraft, except when any such aircraft is
8 used for fundraising for or for the transportation of an elected
9 official;

10 (b) Computer systems, made up of equipment that is
11 interconnected in order to enable the acquisition, storage,
12 manipulation, management, movement, control, display, transmission,
13 or reception of data involving computer software and hardware, used
14 for business information processing which require environmental
15 controls of temperature and power and which are capable of
16 simultaneously supporting more than one transaction and more than
17 one user. A computer system includes peripheral components which
18 require environmental controls of temperature and power connected
19 to such computers. Peripheral components shall be limited to
20 additional memory units, tape drives, disk drives, power supplies,
21 cooling units, data switches, and communication controllers; and

22 (c) Personal property which is business equipment located
23 in a single project if (i) the business equipment is involved
24 directly in the manufacture or processing of agricultural products
25 and (ii) the investment in the single project exceeds ten million

1 dollars.

2 Such property shall be eligible for exemption from the
3 tax on personal property from the first January 1 following the
4 date of acquisition for property in subdivision (2)(a) of this
5 section, or from the first January 1 following the end of the
6 year during which the required levels were exceeded for property
7 in subdivisions (2)(b) and (2)(c) of this section, through the
8 sixteenth December 31 after the filing of the application. In order
9 to receive the property tax exemptions allowed by subdivisions
10 (2)(a), (2)(b), and (2)(c) of this section, the taxpayer shall
11 annually file a claim for exemption with the Tax Commissioner on or
12 before May 1. The form and supporting schedules shall be prescribed
13 by the Tax Commissioner and shall list all property for which
14 exemption is being sought under this section. A separate claim
15 for exemption must be filed for each project and each county in
16 which property is claimed to be exempt. A copy of this form must
17 also be filed with the county assessor in each county in which
18 the applicant is requesting exemption. The Tax Commissioner shall
19 determine the eligibility of each item listed for exemption and, on
20 or before August ~~10~~, 1, certify such to the taxpayer and to the
21 affected county assessor.

22 (3) When the taxpayer has met the required levels of
23 employment and investment contained in the agreement, the taxpayer
24 shall also be entitled to the following incentives:

25 (a) A refund of all sales and use taxes paid under

1 the Nebraska Revenue Act of 1967, the Local Option Revenue
2 Act, and sections 13-319, 13-324, and 13-2813 from the date of
3 the application through the meeting of the required levels of
4 employment and investment for all purchases, including rentals, of:

5 (i) Qualified property used as a part of the project;

6 (ii) Property, excluding motor vehicles, based in this
7 state and used in both this state and another state in connection
8 with the project except when any such property is to be used for
9 fundraising for or for the transportation of an elected official;

10 (iii) Tangible personal property by the owner of the
11 improvement to real estate that is incorporated into real estate as
12 a part of a project; and

13 (iv) Tangible personal property by a contractor or
14 repairperson after appointment as a purchasing agent of the owner
15 of the improvement to real estate. The refund shall be based on
16 fifty percent of the contract price, excluding any land, as the
17 cost of materials subject to the sales and use tax; and

18 (b) A refund of the sales and use taxes paid under the
19 Nebraska Revenue Act of 1967, the Local Option Revenue Act, and
20 sections 13-319, 13-324, and 13-2813 on the types of purchases,
21 including rentals, listed in subdivision (a) of this subsection for
22 such taxes paid during each year of the entitlement period in which
23 the taxpayer is at or above the required levels of employment and
24 investment.

25 (4) Any taxpayer who qualifies for the incentives

1 contained in subsections (1) and (3) of this section and who has
2 added at least thirty new employees at the project shall also be
3 entitled to:

4 (a) A credit equal to five percent of the amount by which
5 the total compensation paid during the year to employees who are
6 either Nebraska employees or base-year employees while employed at
7 the project exceeds the average compensation paid at the project
8 multiplied by the number of equivalent base-year employees.

9 For the computation of such credit, average compensation
10 shall mean the total compensation paid at the project divided by
11 the total number of equivalent employees at the project; and

12 (b) A credit equal to ten percent of the investment made
13 in qualified property at the project.

14 The credits prescribed in subdivisions (a) and (b) of
15 this subsection shall be allowable for compensation paid and
16 investments made during each year of the entitlement period that
17 the taxpayer is at or above the required levels of employment and
18 investment.

19 The credit prescribed in subdivision (b) of this
20 subsection shall also be allowable during the first year of the
21 entitlement period for investment in qualified property at the
22 project after the date of the application and before the required
23 levels of employment and investment were met.

24 Sec. 19. Section 77-5725, Revised Statutes Supplement,
25 2007, is amended to read:

1 77-5725 (1) Applicants may qualify for benefits under the
2 Nebraska Advantage Act in one of five tiers:

3 (a) Tier 1, investment in qualified property of at least
4 one million dollars and the hiring of at least ten new employees.
5 There shall be no new project applications for benefits under
6 this tier filed on or after January 1, 2011, without further
7 authorization of the Legislature. All complete project applications
8 filed before January 1, 2011, shall be considered by the Tax
9 Commissioner and approved if the project and taxpayer qualify
10 for benefits. Agreements may be executed with regard to completed
11 project applications filed before January 1, 2011. All project
12 agreements pending, approved, or entered into before such date
13 shall continue in full force and effect;

14 (b) Tier 2, investment in qualified property of at least
15 three million dollars and the hiring of at least thirty new
16 employees;

17 (c) Tier 3, the hiring of at least thirty new employees.
18 There shall be no new project applications for benefits under
19 this tier filed on or after January 1, 2011, without further
20 authorization of the Legislature. All complete project applications
21 filed before January 1, 2011, shall be considered by the Tax
22 Commissioner and approved if the project and taxpayer qualify
23 for benefits. Agreements may be executed with regard to completed
24 project applications filed before January 1, 2011. All project
25 agreements pending, approved, or entered into before such date

1 shall continue in full force and effect;

2 (d) Tier 4, investment in qualified property of at least
3 ten million dollars and the hiring of at least one hundred new
4 employees; and

5 (e) Tier 5, investment in qualified property of at least
6 thirty million dollars. Failure to maintain an average number of
7 equivalent employees as defined in section 77-5727 greater than or
8 equal to the number of equivalent employees in the base year shall
9 result in a partial recapture of benefits.

10 (2) When the taxpayer has met the required levels of
11 employment and investment contained in the agreement for a tier 1,
12 tier 2, tier 4, or tier 5 project, the taxpayer shall be entitled
13 to the following incentives:

14 (a) A refund of all sales and use taxes for a tier 2,
15 tier 4, or tier 5 project or a refund of one-half of all sales and
16 use taxes for a tier 1 project paid under the Local Option Revenue
17 Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324,
18 and 13-2813 from the date of the application through the meeting of
19 the required levels of employment and investment for all purchases,
20 including rentals, of:

21 (i) Qualified property used as a part of the project;

22 (ii) Property, excluding motor vehicles, based in this
23 state and used in both this state and another state in connection
24 with the project except when any such property is to be used for
25 fundraising for or for the transportation of an elected official;

1 (iii) Tangible personal property by the owner of the
2 improvement to real estate that is incorporated into real estate as
3 a part of a project; and

4 (iv) Tangible personal property by a contractor or
5 repairperson after appointment as a purchasing agent of the owner
6 of the improvement to real estate. The refund shall be based on
7 fifty percent of the contract price, excluding any land, as the
8 cost of materials subject to the sales and use tax; and

9 (b) A refund of all sales and use taxes for a tier 2,
10 tier 4, or tier 5 project or a refund of one-half of all sales and
11 use taxes for a tier 1 project paid under the Local Option Revenue
12 Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324,
13 and 13-2813 on the types of purchases, including rentals, listed in
14 subdivision (a) of this subsection for such taxes paid during each
15 year of the entitlement period in which the taxpayer is at or above
16 the required levels of employment and investment.

17 (3) Any taxpayer who qualifies for a tier 1, tier 2,
18 tier 3, or tier 4 project shall be entitled to a credit equal to
19 three percent times the average wage of new employees times the
20 number of new employees if the average wage of the new employees
21 equals at least sixty percent of the Nebraska average annual wage
22 for the year of application. The credit shall equal four percent
23 times the average wage of new employees times the number of new
24 employees if the average wage of the new employees equals at least
25 seventy-five percent of the Nebraska average annual wage for the

1 year of application. The credit shall equal five percent times the
2 average wage of new employees times the number of new employees
3 if the average wage of the new employees equals at least one
4 hundred percent of the Nebraska average annual wage for the year of
5 application. The credit shall equal six percent times the average
6 wage of new employees times the number of new employees if the
7 average wage of the new employees equals at least one hundred
8 twenty-five percent of the Nebraska average annual wage for the
9 year of application. For computation of such credit:

10 (a) Average annual wage means the total compensation paid
11 to employees during the year at the project who are not base-year
12 employees and who are paid wages equal to at least sixty percent
13 of the Nebraska average weekly wage for the year of application
14 divided by the number of equivalent employees making up such total
15 compensation;

16 (b) Average wage of new employees means the average
17 annual wage paid to employees during the year at the project who
18 are not base-year employees and who are paid wages equal to at
19 least sixty percent of the Nebraska average weekly wage for the
20 year of application; and

21 (c) Nebraska average annual wage means the Nebraska
22 average weekly wage times fifty-two.

23 (4) Any taxpayer who has met the required levels of
24 employment and investment for a tier 2 or tier 4 project shall
25 receive a credit equal to ten percent of the investment made in

1 qualified property at the project. Any taxpayer who has met the
2 required levels of investment and employment for a tier 1 project
3 shall receive a credit equal to three percent of the investment
4 made in qualified property at the project.

5 (5) The credits prescribed in subsections (3) and (4)
6 of this section shall be allowable for compensation paid and
7 investments made during each year of the entitlement period that
8 the taxpayer is at or above the required levels of employment and
9 investment.

10 (6) The credit prescribed in subsection (4) of this
11 section shall also be allowable during the first year of the
12 entitlement period for investment in qualified property at the
13 project after the date of the application and before the required
14 levels of employment and investment were met.

15 (7)(a) A taxpayer who has met the required levels of
16 employment and investment for a tier 4 project shall receive
17 the incentive provided in this subsection. Such investment and
18 hiring of new employees shall be considered a required level of
19 investment and employment for this subsection and for the recapture
20 of benefits under this subsection only.

21 (b) The following property used in connection with such
22 project or projects and acquired by the taxpayer, whether by
23 lease or purchase, after the date the application was filed shall
24 constitute separate classes of personal property:

25 (i) Turbine-powered aircraft, including turboprop,

1 turbojet, and turbofan aircraft, except when any such aircraft is
2 used for fundraising for or for the transportation of an elected
3 official;

4 (ii) Computer systems, made up of equipment that is
5 interconnected in order to enable the acquisition, storage,
6 manipulation, management, movement, control, display, transmission,
7 or reception of data involving computer software and hardware, used
8 for business information processing which require environmental
9 controls of temperature and power and which are capable of
10 simultaneously supporting more than one transaction and more than
11 one user. A computer system includes peripheral components which
12 require environmental controls of temperature and power connected
13 to such computer systems. Peripheral components shall be limited to
14 additional memory units, tape drives, disk drives, power supplies,
15 cooling units, data switches, and communication controllers;

16 (iii) Depreciable personal property used for a
17 distribution facility, including, but not limited to, storage
18 racks, conveyor mechanisms, forklifts, and other property used to
19 store or move products; and

20 (iv) Personal property which is business equipment
21 located in a single project if the business equipment is involved
22 directly in the manufacture or processing of agricultural products.

23 (c) Such property shall be eligible for exemption from
24 the tax on personal property from the first January 1 following
25 the date of acquisition for property in subdivision (7)(b)(i) of

1 this section, or from the first January 1 following the end of the
2 year during which the required levels were exceeded for property in
3 subdivisions (7)(b)(ii), (iii), and (iv) of this section, through
4 the ninth December 31 after the first year any property included in
5 subdivisions (7)(b)(ii), (iii), and (iv) of this section qualifies
6 for the exemption. In order to receive the property tax exemptions
7 allowed by subdivisions (7)(b)(i), (ii), (iii), and (iv) of this
8 section, the taxpayer shall annually file a claim for exemption
9 with the Tax Commissioner on or before May 1. The form and
10 supporting schedules shall be prescribed by the Tax Commissioner
11 and shall list all property for which exemption is being sought
12 under this section. A separate claim for exemption must be filed
13 for each project and each county in which property is claimed
14 to be exempt. A copy of this form must also be filed with the
15 county assessor in each county in which the applicant is requesting
16 exemption. The Tax Commissioner shall determine the eligibility of
17 each item listed for exemption and, on or before August 10, 1,
18 certify such to the taxpayer and to the affected county assessor.
19 In determining the eligibility of items of personal property for
20 exemption, the Tax Commissioner is limited to the question of
21 whether the property claimed as exempt by the taxpayer falls
22 within the classes of property described in subdivision (7)(b) of
23 this section. The determination of whether a taxpayer is eligible
24 to obtain exemption for personal property based on meeting the
25 required levels of investment and employment is the responsibility

1 of the Tax Commissioner.

2 (8) The investment thresholds in this section for a
3 particular year of application shall be adjusted by the method
4 provided in this subsection. Beginning October 1, 2006, and each
5 October 1 thereafter, the Producer Price Index for all commodities,
6 published by the United States Department of Labor, Bureau of Labor
7 Statistics, for the most recent available period shall be divided
8 by the Producer Price Index for the first quarter of 2006 and
9 the result multiplied by the applicable investment threshold. The
10 investment thresholds shall be adjusted for cumulative inflation
11 since 2006. If the resulting amount is not a multiple of one
12 million dollars, the amount shall be rounded to the next lowest
13 one million dollars. The investment thresholds established by this
14 subsection apply for purposes of project qualifications for all
15 applications filed on or after January 1 of the following year
16 for all years of the project. Adjustments do not apply to projects
17 after the year of application.

18 Sec. 20. Sections 1 and 21 of this act become operative
19 on January 1, 2009. The other sections of this act become operative
20 on their effective date.

21 Sec. 21. Original section 77-115, Reissue Revised
22 Statutes of Nebraska, is repealed.

23 Sec. 22. Original sections 77-1201, 77-1202.01, 77-1210,
24 77-1214, 77-1219, 77-1230, 77-1233.02, 77-1233.03, and 77-1734.01,
25 Reissue Revised Statutes of Nebraska, sections 77-1234, 77-1502,

LB 965

LB 965

1 and 77-1504.01, Revised Statutes Cumulative Supplement, 2006, and
2 sections 76-214, 77-1233.04, 77-1233.06, 77-1736.06, 77-4105, and
3 77-5725, Revised Statutes Supplement, 2007, are repealed.

4 Sec. 23. The following section is outright repealed:
5 Section 77-202.13, Revised Statutes Supplement, 2007.

6 Sec. 24. Since an emergency exists, this act takes effect
7 when passed and approved according to law.