

LEGISLATIVE BILL 1104

Approved by the Governor April 14, 1998

Introduced by Raikes, 25; Engel, 17; Hudkins, 21; Maurstad, 30; D. Pederson, 42; Robinson, 16; Schrock, 38; Hilgert, 7; Brown, 6; Abboud, 12

AN ACT relating to revenue and taxation; to amend sections 8-1401, 8-1402, 10-139, 13-518, 77-375, 77-686, 77-1759, 77-2701.02, 77-27.144, 77-4101, 77-5003, 77-5005, 77-5009, and 77-5013, Reissue Revised Statutes of Nebraska, sections 77-123, 77-202.03, 77-203, 77-1504, 77-27.187, 77-27.187.01, 77-4901, 77-5001, and 84-612, Revised Statutes Supplement, 1997, sections 77-3442 and 77-3444, Revised Statutes Supplement, 1997, as amended by sections 36 and 38, respectively, Legislative Bill 306, Ninety-fifth Legislature, Second Session, 1998, and section 7, Legislative Bill 695, Ninety-fifth Legislature, Second Session, 1998; to require production of records to the Tax Commissioner; to change provisions relating to property taxation; to change sales tax rate provisions; to change a local option sales tax provision; to redefine terms; to change and eliminate refund provisions; to change levy limitation provisions; to change provisions relating to the Tax Equalization and Review Commission; to change a state aid provision; to provide for a transfer of funds; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal section 77-1736.08, Revised Statutes Supplement, 1997; and to declare an emergency.

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

Section 1. Section 8-1401, Reissue Revised Statutes of Nebraska, is amended to read:

8-1401. No person or corporation or association organized under Chapter 8, article 1, 2, 3, or 4, the Credit Union Act, the Nebraska Depository Institution Guaranty Corporation Act, the Nebraska Nonprofit Corporation Act, the Business Corporation Act, the Nebraska Professional Corporation Act, or the Nebraska Industrial Development Corporation Act, or otherwise authorized to conduct business in Nebraska or organized under the laws of the United States, shall be required to disclose any information, financial or otherwise, that it deems confidential concerning its affairs or the affairs of any person or corporation with which it is doing business to any person, party, agency, or organization, unless there shall first be presented to such person, corporation, or association a court order of a court of competent jurisdiction setting forth the exact nature and limits of such required disclosure and a showing that all persons or organizations to be affected by such order have had reasonable notice and an opportunity to be heard upon the merits of such order. The requesting party shall pay the costs of providing such information pursuant to section 8-1402. This section shall not apply to any duly constituted supervisory regulatory agency of such person, corporation, or association, to the production of records pursuant to a written demand of the Tax Commissioner under section 77-375, to disclosures governed by rules for discovery adopted and promulgated pursuant to section 25-1273.01, or to such cases for which specific disclosures are specifically required by other sections of the statutes heretofore or hereafter enacted, except that the Department of Banking and Finance shall be subject to the payment of cost provision of this section when making inquiries that are beyond those normally made in conducting examinations and inquiries for the purpose of determining the safety and soundness of a financial institution, but shall not be subject to the disclosure and reasonable notice provisions of this section when making reasonable inquiries of any person, corporation, or association for the purpose of enforcing any of the laws over which the department has jurisdiction.

Sec. 2. Section 8-1402, Reissue Revised Statutes of Nebraska, is amended to read:

8-1402. If any person, corporation, or association covered by section 8-1401 is required by court order, by ~~or~~ lawful subpoena, summons, or warrant, or by written demand pursuant to subsection (2) of section 77-375 or, after receiving the written permission of the person, corporation, or association about whom information is being sought, voluntarily consents to provide information in its possession, it shall be paid by the requesting person, party, agency, or organization for the service. The requesting

person, party, agency, or organization shall pay five dollars per hour per person for the time actually spent on the service or, if such person, corporation, or association can show that its actual expense in providing the information was greater than five dollars per hour per person, it shall be paid the actual cost of providing the information. No person, corporation, or association has an obligation to provide any information pursuant to section 8-1401, other than pursuant to a court order, a lawful subpoena, summons, or warrant, or a written demand pursuant to subsection (2) of section 77-375, until assurances are received that the costs due under this section will be paid.

Sec. 3. Section 10-139, Reissue Revised Statutes of Nebraska, is amended to read:

10-139. Any county treasurer or other officer holding any funds of an issuer shall transfer to the issuer or to a paying agent all or such portion of such funds as the governing body or treasurer of the issuer shall request. The county treasurer or officer making payment to the issuer or to a paying agent as requested shall have no further responsibility for the funds so transferred. Upon request, one payment shall be for the funds collected or received during the previous calendar month and shall be paid not later than the fifteenth of the following month. A second demand may be made prior to the fifteenth of the month on taxes and special assessments collected or received, during the first fifteen days of the month. The second demand shall be paid not later than the last day of the month.

Sec. 4. Section 13-518, Reissue Revised Statutes of Nebraska, is amended to read:

13-518. For purposes of sections 13-518 to 13-522:

(1) Capital improvements means (a) acquisition of real property, (b) acquisition, construction, or extension of any improvements on real property, (c) furnishing or equipping of any improvement, except that routine maintenance and the acquisition of any equipment with a useful life of less than five years shall not be considered capital improvements, and (d) acquisition or replacement of other tangible personal property with a useful life of five years or more;

(2) Governing body has the same meaning as in section 13-503;

(3) Governmental unit means every political subdivision which has authority to levy a property tax except sanitary and improvement districts which have been in existence for five years or less and school districts;

(4) Population growth means (a) for governmental units other than community colleges, the percentage increase, if any, in inhabitants in the governmental unit between the two most recent consecutive years for which population estimates are available and (b) for community colleges, the percentage increase, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined. A governmental unit may use federal census numbers from the annual county population estimates from the Bureau of Economic Analysis of the United States Department of Commerce federal census update or recount or numbers calculated using a method similar to the method described in section 77-3,119 for the two most recent available consecutive years for determining population growth. A governmental unit which encompasses part of one or more counties may estimate the prior year and current year population using housing starts, by basing the estimate on a proportionate share of the population of the county, or by using the population growth estimate of those municipalities that are within that portion of the county;

(5) Restricted funds means (a) property tax, excluding any amounts required to pay interest and principal on bonded indebtedness and any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) state aid, and (e) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee; and

(6) State aid means:

(a) For all governmental units, state aid paid pursuant to sections 60-305.15 and 77-3523;

(b) For municipalities, state aid to municipalities paid pursuant to sections 18-2605, 39-2501 to 39-2520, and 77-27,136 and insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections 39-2501 to 39-2520 and 77-27,136 and sections 2 and 7, Legislative Bill 695, Ninety-fifth Legislature, Second Session, 1998, and insurance premium tax paid to counties;

(d) For community colleges, state aid to community colleges paid under sections 85-1536 and 85-1537; ~~and~~

(e) For natural resources districts, state aid to natural resources districts paid pursuant to section 77-27,136; and

(f) For educational service units, state aid appropriated under section 79-1241.

Sec. 5. Section 77-123, Revised Statutes Supplement, 1997, is amended to read:

77-123. Omitted property means, for the current tax year, any taxable real property that was not assessed on April 1 and any taxable tangible personal property that was not assessed on May 1. Omitted property also means any taxable real or tangible personal property that was not assessed for any prior tax year. Omitted property does not include property exempt under subdivisions (1)(a) through (c) of section 77-202 or listing errors of an item of property on the assessment roll of the county assessor.

Sec. 6. Section 77-202.03, Revised Statutes Supplement, 1997, is amended to read:

77-202.03. (1) A properly granted exemption of real or tangible personal property, except real property used for cemetery purposes, provided for in subdivisions (1)(b) and (1)(c) of section 77-202 shall continue for a period of four years if the affidavit required by subsection (2) of this section is filed when due. The four-year period shall begin with years evenly divisible by four.

(2) In each intervening year occurring between application years, the organization or society which filed the granted exemption application for the real or tangible personal property, except real property used for cemetery purposes, shall file an affidavit with the county assessor on or before December 31 of the year preceding the year for which the exemption is sought. on forms prescribed by the Property Tax Administrator, certifying that the ownership and use of the exempted property has not changed during the year. Any organization or society which misses the December 31 deadline for filing the affidavit may file the affidavit by June 30. Such filing shall maintain the tax-exempt status of the property without further action by the county and regardless of any previous action by the county board to deny the exemption due to late filing of the affidavit. Upon any such late filing, the county board shall assess a penalty against such organization or society of ten percent of the tax that would have been assessed had the affidavit not been filed or one hundred dollars, whichever is less, for each calendar month or fraction thereof for which the filing of the affidavit is late.

(3) If any organization or society seeks a tax exemption for any real or tangible personal property acquired on or after January 1 of any year or converted to exempt use on or after January 1 of any year, the organization or society shall make application for exemption on or before August 1 of that year as provided in section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.07, except that the exempt use shall be determined as of the date of application and the review by the county board of equalization shall be completed by August 15.

(4) In any year, the county assessor or the county board of equalization may cause a review of any exemption to determine whether the exemption is proper. Such a review may be taken even if the ownership or use of the property has not changed from the date of the allowance of the exemption. The review shall follow the procedure set out in section 77-202.02. If it is determined that a change in an exemption is warranted, the procedure for hearing set out in section 77-202.02 shall be followed. If an exemption is denied, the county board of equalization shall place the property on the tax rolls retroactive to January 1 of that year if on the date of the decision of the county board of equalization the property no longer qualifies for an exemption.

(5) During the month of September of each year, the county board of equalization shall cause to be published in a paper of general circulation in the county a list of all real estate in the county exempt from taxation for that year pursuant to subdivisions (1)(b) and (1)(c) of section 77-202. Such list shall be grouped into categories as provided by the Property Tax Administrator. A copy of the list and proof of publication shall be forwarded to the Property Tax Administrator.

Sec. 7. Section 77-203, Revised Statutes Supplement, 1997, is amended to read:

77-203. All property taxes levied for any county, city, village, or other political subdivision therein shall be due and payable on December 31 next following the date of levy thereof except as provided in section 77-1214. Commencing and commencing on that date taxes on real property shall be a first lien on the property taxed until paid or extinguished as provided by law. Taxes on personal property shall be a first lien upon the personal property of the person to whom assessed until paid.

Sec. 8. Section 77-375, Reissue Revised Statutes of Nebraska, is amended to read:

77-375. (1) The Tax Commissioner, or his or her duly authorized representative, and the Property Tax Administrator may administer oaths and compel the attendance of witnesses and require the production of records as may be necessary for the performance of his or her responsibilities under applicable state law.

(2) Any person shall comply with a written demand of the Tax Commissioner requiring the production of records notwithstanding the confidentiality provisions of section 8-1401. The records and the information contained thereon shall be protected pursuant to the confidentiality provisions applicable to the Tax Commissioner. Any person disclosing information to the Tax Commissioner pursuant to a demand for production of records under this subsection is immune from liability, civil, criminal, or otherwise, that might result from disclosing such information. The Tax Commissioner shall pay the costs of providing such information pursuant to section 8-1402.

(3) The Tax Commissioner and the Property Tax Administrator may adopt and promulgate rules of procedure for discovery, not in conflict with the laws governing discovery in civil cases, as may be necessary for the performance of his or her responsibilities under applicable state law.

Sec. 9. Section 77-686, Reissue Revised Statutes of Nebraska, is amended to read:

77-686. The Property Tax Administrator, on or before ~~December 31~~ January 15 of each year, shall certify to the State Treasurer the names of the car line companies and the several amounts of taxes levied under section 77-684.

Sec. 10. Section 77-1504, Revised Statutes Supplement, 1997, is amended to read:

77-1504. The county board of equalization may meet on or after June 1 and on or before July 25 to consider and correct the current year's assessment of any real property which has been undervalued, overvalued, or omitted. The board shall give notice of the assessed value to the record owner or agent at his or her last-known address.

The county board of equalization in taking action pursuant to this section may consider the ~~expert reports~~ reports of the county assessor pursuant to ~~section sections~~ sections 77-1315.01 and 77-1317 or any other information known to any member of the board.

Action of the county board of equalization pursuant to this section shall be for the current assessment year only.

The action of the county board of equalization may be protested to the board within thirty days after the mailing of the notice required by this section. If no protest is filed, the action of the board shall be final. If a protest is filed, the county board of equalization shall hear the protest in the manner prescribed in section 77-1502, except that all protests shall be heard and decided on or before September 15.

The action of the county board of equalization upon a protest filed pursuant to this section may be appealed to the Tax Equalization and Review Commission on or before October 15.

Sec. 11. Section 77-1759, Reissue Revised Statutes of Nebraska, is amended to read:

77-1759. The county treasurer shall report and pay over the amount of tax and special assessments due to towns, districts, cities, villages, corporations, and persons, collected by him or her, when demanded by the proper authorities or persons. Upon a demand, one payment shall be for the funds collected or received during the previous calendar month and shall be paid not later than the fifteenth of the following month. A second demand may be made prior to the fifteenth of the month on taxes and special assessments collected or received, during the first fifteen days of the month. The second demand shall be paid not later than the last day of the month.

Sec. 12. Section 77-2701.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-2701.02. Pursuant to section 77-2715.01: ~~commencing July 1, 1990, or on July 10, 1990, whichever is later,~~

(1) Until July 1, 1998, or the operative date of this section, whichever is later, the rate of the sales tax levied pursuant to section 77-2703 shall be five percent;

(2) Commencing July 1, 1998, or the operative date of this section, whichever is later, and until July 1, 1999, the rate of the sales tax levied pursuant to section 77-2703 shall be four and one-half percent; and

(3) Commencing July 1, 1999, the rate of the sales tax levied pursuant to section 77-2703 shall be five percent.

Sec. 13. Section 77-27,144, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,144. The Tax Commissioner shall collect the tax imposed by any incorporated municipality concurrently with collection of a state tax in the same manner as the state tax is collected. The Tax Commissioner shall remit monthly the proceeds of the tax to the incorporated municipalities levying the tax, after deducting the amount of refunds made and three percent of the remainder to be credited to the Municipal Equalization Fund. The Tax Commissioner shall keep full and accurate records of all money received and distributed under the provisions of the Local Option Revenue Act. When proceeds of a tax levy are received but the identity of the incorporated municipality which levied the tax is unknown and is not identified within six months after receipt, the amount shall be credited to the Municipal Equalization Fund.

Sec. 14. Section 77-27,187, Revised Statutes Supplement, 1997, is amended to read:

77-27,187. Sections 77-27,187 to 77-27,196 and section 16 of this act shall be known and may be cited as the Employment Expansion and Investment Incentive Act.

Sec. 15. Section 77-27,187.01, Revised Statutes Supplement, 1997, is amended to read:

77-27,187.01. For purposes of the Employment Expansion and Investment Incentive Act, unless the context otherwise requires:

(1) Any term has the same meaning as used in the Nebraska Revenue Act of 1967;

(2) Equivalent Nebraska employees means the number of Nebraska employees computed by dividing the total hours paid in a year to Nebraska employees by the product of forty times the number of weeks in a year;

(3) Nebraska employee means an individual who is either a resident or partial-year resident of Nebraska;

(4) Related taxpayers includes any corporations that are part of a unitary business under the Nebraska Revenue Act of 1967 but are not part of the same corporate taxpayer, any business entities that are not corporations but which would be a part of the unitary business if they were corporations, and any business entities if at least fifty percent of such entities are owned by the same persons or related taxpayers and family members as defined in the ownership attribution rules of the Internal Revenue Code of 1986, as amended;

(5) Taxpayer means a corporate taxpayer or other person subject to either an income tax imposed by the Nebraska Revenue Act of 1967 or a franchise tax under Chapter 77, article 38, or exempt from such taxes under section 521 of the Internal Revenue Code of 1986, as amended, or a partnership, limited liability company, S corporation, or joint venture when all of the partners, shareholders, or members are subject to either of or exempt from such taxes; and

(6) Year means the taxable year of the taxpayer.

Sec. 16. For all refund claims filed on or after October 1, 1998, interest shall not be allowable on any refunds paid because of benefits earned under the Employment Expansion and Investment Incentive Act.

Sec. 17. Section 77-3442, Revised Statutes Supplement, 1997, as amended by section 36, Legislative Bill 306, Ninety-fifth Legislature, Second Session, 1998, is amended to read:

77-3442. (1) Property tax levies for the support of local governments for fiscal years beginning on or after July 1, 1998, shall be limited to the amounts set forth in this section except as provided in section 77-3444.

(2)(a) Except as provided in subdivision (2)(b) of this section, school districts and multiple-district school systems may levy a maximum levy of (i) one dollar and ten cents per one hundred dollars of taxable valuation of property subject to the levy until fiscal year 2001-02 and (ii) one dollar per one hundred dollars of taxable valuation of property subject to the levy for fiscal year 2001-02 and all subsequent fiscal years. Excluded from this limitation are amounts levied to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment and amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(b) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) of this section only to the extent necessary to qualify to receive federal aid pursuant to Title VIII of Public Law

103-382. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382.

(3) Community colleges may levy a maximum levy on each one hundred dollars of taxable property subject to the levy of (a) eight cents for fiscal year 1998-99 and fiscal year 1999-2000 and (b) seven cents for fiscal year 2000-01 and each fiscal year thereafter.

(4) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(5) Educational service units may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6) Incorporated cities and villages may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy.

(8) Counties may levy or authorize a maximum levy of fifty cents per one hundred dollars of taxable valuation of property subject to the levy, except that five cents per one hundred dollars of taxable valuation of property subject to the levy may only be levied to provide financing for the county's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201 or museum pursuant to section 51-501. The county may allocate up to fifteen cents of its authority to other political subdivisions subject to allocation of property tax authority under subsection (1) of section 77-3443 and not specifically covered in this section to levy taxes as authorized by law which do not collectively exceed fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property. The county may allocate to one or more other political subdivisions subject to allocation of property tax authority by the county under subsection (1) of section 77-3443 some or all of the county's five cents per one hundred dollars of valuation authorized for support of an interlocal agreement or agreements to be levied by the political subdivision for the purpose of supporting that political subdivision's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act. If an allocation by a county would cause another county to exceed its levy authority under this section, the second county may exceed the levy authority in order to levy the amount allocated.

(9) Property tax levies for judgments obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, for preexisting lease-purchase contracts approved prior to July 1, 1998, and for bonded indebtedness approved according to law and secured by a levy on property are not included in the levy limits established by this section.

(10) The limitations on tax levies provided in this section are to include all other general or special levies provided by law. Notwithstanding other provisions of law, the only exceptions to the limits in this section are those provided by or authorized by sections 77-3442 to 77-3444.

(11) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

Sec. 18. Section 77-3444, Revised Statutes Supplement, 1997, as amended by section 38, Legislative Bill 306, Ninety-fifth Legislature, Second Session, 1998, is amended to read:

77-3444. (1) A political subdivision, other than a Class I school district, may exceed the limits provided in section 77-3442 or a final levy allocation determination as provided in section 77-3443 by an amount not to

exceed a maximum levy approved by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to exceed the limits provided in section 77-3442 or a final levy allocation as provided in section 77-3443 must be approved prior to October 10 of the fiscal year which is to be the first to exceed the limits or final levy allocation. The governing body of the political subdivision may call for the submission of the issue to the voters (a) by passing a resolution calling for exceeding the limits or final levy allocation by a vote of at least two-thirds of the members of the governing body and delivering a copy of the resolution to the county clerk or election commissioner of every county which contains all or part of the political subdivision or (b) upon receipt of a petition by the county clerk or election commissioner of every county containing all or part of the political subdivision requesting an election signed by at least five percent of the registered voters residing in the political subdivision. The resolution or petition shall include the amount of levy which would be imposed in excess of the limits provided in section 77-3442 or the final levy allocation as provided in section 77-3443 and the duration of the excess levy authority. The excess levy authority shall not have a duration greater than five years. Any resolution or petition calling for a special election shall be filed with the county clerk or election commissioner no later than thirty days prior to the date of the election, and the time of publication and providing a copy of the notice of election required in section 32-802 shall be no later than twenty days prior to the election. The county clerk or election commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least thirty days after receipt of the resolution or petition. The election shall be held pursuant to the Election Act. For petitions filed with the county clerk or election commissioner on or after May 1, 1998, the petition shall be in the form as provided in sections 32-628 to 32-631. Any excess levy authority approved under this section shall terminate pursuant to its terms, on a vote of the governing body of the political subdivision to terminate the authority to levy more than the limits, at the end of the fourth fiscal year following the first year in which the levy exceeded the limit or the final levy allocation, or as provided in subsection (5) of this section, whichever is earliest. A governing body may pass no more than one resolution calling for an election pursuant to this section during any one calendar year. There shall be no limit on the number of elections held pursuant to this section which are initiated by petition.

(2) The ballot question may include any terms and conditions set forth in the resolution or petition and shall include the following: "Shall (name of political subdivision) be allowed to levy a property tax not to exceed cents per one hundred dollars of taxable valuation in excess of the limits prescribed by law until fiscal year for the purposes of (general operations; building construction, remodeling, or site acquisition; or both general operations and building construction, remodeling, or site acquisition)?" If a majority of the votes cast upon the ballot question are in favor of such tax, the county board shall authorize a tax in excess of the limits in section 77-3442 or the final levy allocation in section 77-3443 but such tax shall not exceed the amount stated in the ballot question. If a majority of those voting on the ballot question are opposed to such tax, the governing body of the political subdivision shall not impose such tax.

(3) The county clerk or election commissioner may set a uniform date for a special election to be held before October 10, 1998, to submit the issue of exceeding the limits provided in section 77-3442 or the final levy allocation as provided in section 77-3443 to the voters of political subdivisions in the county seeking additional levy authority. Any political subdivision may individually or in conjunction with one or more other political subdivisions conduct a special election on a date different from that set by the county clerk or election commissioner, except that a governing body shall pass a resolution calling for a special election for this purpose and deliver a copy of the resolution to the county clerk or election commissioner no later than thirty days prior to the date of the election.

(4) In lieu of the election procedures in subsection (1) of this section, any political subdivision subject to section 77-3443, other than a Class I school district, and villages may approve a levy in excess of the limits in section 77-3442 or the final levy allocation provided in section 77-3443 for a period of one year at a meeting of the residents of the political subdivision or village, called after notice is published in a newspaper of general circulation in the political subdivision or village at least twenty days prior to the meeting. At least ten percent of the registered voters residing in the political subdivision or village shall

constitute a quorum for purposes of taking action to exceed the limits or final levy allocation. If a majority of the registered voters present at the meeting vote in favor of exceeding the limits or final levy allocation, a copy of the record of that action shall be forwarded to the county board prior to October 10 and the county board shall authorize a levy as approved by the residents for the year.

(5) A political subdivision, other than a Class I school district, may rescind or modify a previously approved excess levy authority prior to its expiration by a majority of registered voters voting on the issue in a primary, general, or special election at which the issue is placed before the registered voters. A vote to rescind or modify must be approved prior to October 10 of the fiscal year for which it is to be effective. The governing body of the political subdivision may call for the submission of the issue to the voters (a) by passing a resolution calling for the rescission or modification by a vote of at least two-thirds of the members of the governing body and delivering a copy of the resolution to the county clerk or election commissioner of every county which contains all or part of the political subdivision or (b) upon receipt of a petition by the county clerk or election commissioner of every county containing all or part of the political subdivision requesting an election signed by at least five percent of the registered voters residing in the political subdivision. The resolution or petition shall include the amount and the duration of the previously approved excess levy authority and a statement that either such excess levy authority will be rescinded or such excess levy authority will be modified. If the excess levy authority will be modified, the amount and duration of such modification shall be stated. The modification shall not have a duration greater than five years. The county clerk or election commissioner shall place the issue on the ballot at an election as called for in the resolution or petition which is at least thirty days after receipt of the resolution or petition, and the time of publication and providing a copy of the notice of election required in section 32-802 shall be no later than twenty days prior to the election. The election shall be held pursuant to the Election Act.

(6) For purposes of this section, when the political subdivision is a sanitary and improvement district, registered voter means a person qualified to vote as provided in section 31-735. Any election conducted under this section for a sanitary and improvement district shall be conducted and counted as provided in sections 31-735 to 31-735.06.

(7) For purposes of this section, when the political subdivision is a school district or a multiple-district school system, registered voter includes both (a) persons qualified to vote for the members of the school board of the school district which is voting to exceed the maximum levy limits pursuant to this section and (b) persons in those portions of any Class I district which are affiliated with or a part of the school district which is voting pursuant to this section, if such voter is also qualified to vote for the school board of the affected Class I school district.

Sec. 19. Section 77-4101, Reissue Revised Statutes of Nebraska, is amended to read:

77-4101. Sections 77-4101 to 77-4112 and section 20 of this act shall be known and may be cited as the Employment and Investment Growth Act.

Sec. 20. For all refund claims filed on or after October 1, 1998, interest shall not be allowable on any refunds paid because of benefits earned under the Employment and Investment Growth Act.

Sec. 21. Section 77-4901, Revised Statutes Supplement, 1997, is amended to read:

77-4901. Sections 77-4901 to 77-4935 and section 22 of this act shall be known and may be cited as the Quality Jobs Act.

Sec. 22. For all refund claims filed on or after October 1, 1998, interest shall not be allowable on any refunds paid because of benefits earned under the Quality Jobs Act.

Sec. 23. Section 77-5001, Revised Statutes Supplement, 1997, is amended to read:

77-5001. Sections 77-5001 to 77-5031 and section 26 of this act shall be known and may be cited as the Tax Equalization and Review Commission Act.

Sec. 24. Section 77-5003, Reissue Revised Statutes of Nebraska, is amended to read:

77-5003. The Tax Equalization and Review Commission is created. The Tax Commissioner has no supervision, authority, or control over the actions or decisions of the commission relating to its duties prescribed by law. The commission shall have three commissioners, one from each congressional district, who are appointed by the Governor with the approval of a majority of the members of the Legislature. One of the commissioners shall

be designated by the Governor as chairperson.

The term of the commissioner from district 1 expires two years after the first appointment under this section, the term of the commissioner from district 2 expires four years after the first appointment under this section, and the term of the commissioner from district 3 expires six years after the first appointment under this section. After the initial terms are completed, each term shall be for six years. Upon the expiration of his or her term of office, a commissioner shall continue to serve until his or her successor has been appointed, and shall expire on a staggered basis every two years.

A commissioner may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless notice and hearing are expressly waived in writing by the commissioner.

Sec. 25. Section 77-5005, Reissue Revised Statutes of Nebraska, is amended to read:

77-5005. (1) Within ten days after appointment, the commissioners shall meet at their office in Lincoln, Nebraska, and enter upon the duties of their office.

(2) A majority of the commission shall at all times constitute a quorum to transact business, and one vacancy shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

(3) Any investigation, inquiry, or hearing held or undertaken by the commission may be held or undertaken by or before any one commissioner with the approval of the commission.

(4) When holding hearings pursuant to sections 77-5016, 77-5024, and 77-5026, the commission may, after hearing the evidence and argument on the record, recess to closed deliberations for the limited purpose of deciding the matter before it notwithstanding sections 84-1408 to 84-1414. After deliberating, the commission shall issue its final decision, accompanied by findings of fact and conclusions of law, in writing or on the record.

(5) All investigations, inquiries, hearings, and decisions of a commissioner and every order made by a commissioner when approved and confirmed by a quorum of the commission, if so shown on its record of proceedings, shall be deemed to be the order of the commission.

Sec. 26. In appeals by a county assessor in his or her official capacity pursuant to section 77-5007, the county assessor may request that the district court appoint an attorney to represent the county assessor before the commission. Upon a showing of good cause, the district court may make such an appointment by an order to be entered upon the minutes of the court. Any attorney so appointed shall receive no compensation from the county except as provided for in section 23-1204.01.

Sec. 27. Section 77-5009, Reissue Revised Statutes of Nebraska, is amended to read:

77-5009. (1) The commission may employ legal, clerical, and other assistants as may be necessary to carry out the powers and duties of the commission.

(2)(a) For purposes of finding facts or in the performance of other duties with regard to any matters relating to taxation, the commission may appoint by an order in writing a special master or special masters whose duties are prescribed in the order.

(b) Special masters may be paid a salary or fee in the discretion of the commission. If a salary is paid, the amount paid shall be fixed by the commission, and if a fee is paid, the amount paid shall be in accordance with the value of the service rendered and shall be agreed upon and approved by the commission before the special master renders service under his or her appointment.

(c) The claim for services rendered shall be certified by the commission and paid as provided by law for other claims against the state.

(3) In the discharge of his or her duties a special master shall have all the investigative and factfinding powers of the commission in deciding any tax dispute.

(4)(a) The commission may conduct a number of factfindings contemporaneously through different special masters and may delegate to a special master the taking of all testimony bearing upon any investigation or hearing.

(b) The decision of the commission shall be based upon its examination of all testimony and records.

(c) The recommendations made by any special master shall be advisory only and shall not preclude the taking of further testimony if the commission orders further investigation.

Sec. 28. Section 77-5013, Reissue Revised Statutes of Nebraska, is amended to read:

77-5013. The person filing an appeal with the commission shall pay a filing fee of twenty-five dollars, except that there shall be no filing fee for a county assessor filing in his or her official capacity. The commission shall remit the filing fees collected to the State Treasurer for credit to the General Fund.

Sec. 29. Section 7, Legislative Bill 695, Ninety-fifth Legislature, Second Session, 1998, is amended to read:

Sec. 7. (1) The County Property Tax Relief Program is created. The program shall be used to distribute money to county governments to provide property tax relief and equalize county capacity to pay for public services from property taxes. Funds shall be distributed on or before September 1 each year by the Department of Revenue according to the formula created in this section.

(2) The department shall calculate the amount to be distributed to each county as follows:

(a) The county capacity shall be determined for each county. This amount is the assessed value of the county for the prior year multiplied by the county local effort rate, which is ~~0.018~~ a tax rate of one and eight-tenths cents per one hundred dollars valuation, divided by the number of road miles maintained by the county;

(b) The statewide county capacity shall be determined. This amount is the statewide assessed value for the prior year multiplied by the county local effort rate, which is ~~0.018~~ a tax rate of one and eight-tenths cents per one hundred dollars valuation, divided by the number of road miles maintained by all counties;

(c) The amount of aid due a county shall be determined by subtracting the county capacity from the statewide county capacity, if the result is a positive number, this amount multiplied by the number of county road miles is the amount to be distributed to the county subject to subdivision (d) of this subsection; and

(d) The amount distributed to a county shall not exceed an amount equal to the result of a tax rate of five cents per one hundred dollars on the assessed value of the county.

(3) The Department of Roads shall provide the county road-mile information for all counties each year to the Department of Revenue. The information provided shall be the same as determined under section 39-2507.

(4) The Legislature shall appropriate five million five hundred thousand dollars for fiscal year 1998-99 to the program from the General Fund for purposes of this section.

Sec. 30. Section 84-612, Revised Statutes Supplement, 1997, is amended to read:

84-612. (1) There is hereby created within the state treasury a fund known as the Cash Reserve Fund which shall be under the direction of the State Treasurer. The fund shall only be used pursuant to this section.

(2) The State Treasurer shall transfer funds from the Cash Reserve Fund to the General Fund upon certification by the Director of Administrative Services that the current cash balance in the General Fund is inadequate to meet current obligations. Such certification shall include the dollar amount to be transferred.

(3) Any transfers made pursuant to subsection (2) of this section shall be reversed upon notification by the Director of Administrative Services that sufficient funds are available.

(4) On or before August 1, 1994, the State Treasurer shall transfer six million dollars from the Cash Reserve Fund to the Job Training Cash Fund.

(5) On June 15, 1999, the State Treasurer shall transfer forty million dollars from the Cash Reserve Fund to the General Fund.

(6) On or before June 30, 1999, the State Treasurer shall transfer eighty million dollars from the Cash Reserve Fund to the General Fund.

Sec. 31. Sections 18 and 32 of this act become operative on December 1, 1997. Sections 23 to 28 and 33 of this act become operative on July 1, 1998. Sections 13, 17, 34, and 36 of this act become operative on July 1, 1998. The other sections of this act become operative on their effective date.

Sec. 32. Original section 77-3444, Revised Statutes Supplement, 1997, as amended by section 38, Legislative Bill 306, Ninety-fifth Legislature, Second Session, 1998, is repealed.

Sec. 33. Original sections 77-5003, 77-5005, 77-5009, and 77-5013, Reissue Revised Statutes of Nebraska, and section 77-5001, Revised Statutes Supplement, 1997, are repealed.

Sec. 34. Original section 77-27,144, Reissue Revised Statutes of Nebraska, and section 77-3442, Revised Statutes Supplement, 1997, as amended by section 36, Legislative Bill 306, Ninety-fifth Legislature, Second Session,

1998, are repealed.

Sec. 35. Original sections 8-1401, 8-1402, 10-139, 13-518, 77-375, 77-686, 77-1759, 77-2701.02, and 77-4101, Reissue Revised Statutes of Nebraska, sections 77-123, 77-202.03, 77-203, 77-1504, 77-27,187, 77-27,187.01, 77-4901, and 84-612, Revised Statutes Supplement, 1997, and section 7, Legislative Bill 695, Ninety-fifth Legislature, Second Session, 1998, are repealed.

Sec. 36. The following section is outright repealed: Section 77-1736.08, Revised Statutes Supplement, 1997.

Sec. 37. Since an emergency exists, this act takes effect when passed and approved according to law.