

LEGISLATIVE BILL 142

Approved by the Governor May 31, 2001

Introduced by Schimek, 27; Aguilar, 35; Brown, 6; Cudaback, 36; Kremer, 34; Quandahl, 31; Wickersham, 49

AN ACT relating to local government; to amend sections 9-625, 10-131, 10-133, 10-142, 13-804, 13-2202, 14-2116, 23-2323.03, 32-567, 39-2501, 39-2503, 39-2504, 39-2507, 39-2508, 39-2509, 39-2511, 39-2512, 39-2513, 39-2514, 39-2517, 39-2518, 39-2519, 66-4,148, 77-2711, and 77-4106, Reissue Revised Statutes of Nebraska, and sections 10-127, 13-503, 13-2401, 13-2504, 23-1118, 23-2301, 23-2306, 23-2331, 57-1302, 74-1305, 77-2704.31, 77-3442, 77-3443, and 77-4105, Revised Statutes Supplement, 2000; to authorize creation of municipal counties; to authorize a local sales and use tax; to provide retirement benefits; to harmonize provisions; and to repeal the original sections.

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

Section 1. (1) One or more counties and at least one of the municipalities in each county may create a municipal county to carry out all county services and all municipal services. The process of creating a municipal county shall begin by passage of a joint resolution by the governing bodies of the counties and municipalities involved. The joint resolution may be initiated by the governing bodies or by petition as provided in subsection (2) of this section.

(2) Whenever registered voters of any county and of at least one municipality in the county, equal in number to ten percent of the total vote cast for Governor in the county or municipality at the preceding election, petition the respective county board and city council or village board of trustees to pass a resolution as contemplated by this section, it shall be the duty of the county board and city council or village board to pass a joint resolution creating an interjurisdictional planning commission. Petitions shall be filed with the county clerk, election commissioner, city clerk, or other officer having charge of the records of the governing body. The official shall ascertain the number of registered voters signing such petitions and transmit his or her findings, along with the petition, to the county board and city council or village board of trustees.

(3) Within ninety days after the passage of the joint resolution or within ninety days after receipt of a petition by the registered voters, the governing bodies of the counties and municipalities involved shall create an interjurisdictional planning commission. A commission may also be created by the district court having jurisdiction over the counties and municipalities involved upon the failure by the counties and municipalities to pass a joint resolution after submission of a petition by the registered voters. The commission shall have no less than nine members and no more than twenty-one members representing the counties and municipalities involved as determined by the governing bodies of the counties and municipalities involved in order to achieve proportionate representation. The governing bodies shall select the members. Representation on the commission shall be prorated based upon population of the counties and municipalities involved, except that (a) each county and each municipality involved shall have at least one representative selected by its respective governing body and (b) not more than forty percent of the total membership shall be public officials. Meetings of the commission shall be subject to sections 84-1408 to 84-1414.

(4)(a) The commission shall hold at least one public hearing prior to preparing the plan for the creation of the municipal county, study all governmental subdivisions in the affected area, and then make a determination of whether creation of a municipal county is in the public interest. If it is not in the public interest to do so, the commission shall issue a report stating its findings, including, but not limited to, any recommendations regarding (i) interlocal agreements, (ii) agreements to provide for the joint delivery of services, or (iii) any other such recommendations. If it is in the public interest to do so, the commission shall prepare one plan for the creation of the municipal county. Such plan shall be approved by the governing body of each county and each municipality involved prior to submission of the issue to a vote of the registered voters unless the commission was created by a petition of the registered voters.

(b) The plan shall specify (i) which counties and municipalities will be dissolved upon creation of the municipal county, (ii) the form of

government, with an elected executive officer, a professional municipal county manager or administrator appointed by the commission, or both, to operate the executive functions of the municipal county, (iii) the number of council members of the municipal county and whether they will be elected by district or at large, and (iv) which elected officials, if any, will be eliminated.

(c) At least ninety days prior to submission of the issue to a vote of the registered voters, the commission and the governing body of each county and each municipality involved shall hold at least one public hearing in its respective jurisdiction and make available for review by residents of the county and municipality all material terms and conditions set forth in the resolution to create the municipal county, including information regarding the tax implications and quality and cost of services to be provided by the proposed plan to create the municipal county.

(5) Upon approval of the plan by the governing body of each county and each municipality involved, if required, or upon the governing bodies' approval or failure to approve if the commission was created by a petition of the registered voters, the county clerks or election commissioners shall place the issue on the ballot at the next primary, general, or special election.

Sec. 2. Whenever creation of a municipal county is proposed involving a city of the metropolitan class, the interjurisdictional planning commission shall include in its plan a recommendation with regard to the territory within which any metropolitan utilities district shall have and may exercise the power of eminent domain pursuant to subsection (2) of section 14-2116. The plan shall further include a recommendation with regard to the territory which shall be deemed to be within the corporate boundary limits or extraterritorial zoning jurisdiction of a municipality or a municipality dissolved by the creation of the municipal county for purposes of sections 57-1301 to 57-1307. The question of creation of the municipal county shall not be submitted to a vote under section 10 of this act until a law adopting the provisions required by this section has been enacted.

Sec. 3. (1)(a) Except as provided in subdivision (1)(b) of this section, a municipal county created under section 1 of this act shall be governed by a council of five to nine members, at least two-thirds of whom shall be elected by district. The council members shall be elected on a nonpartisan ballot. The area involved in the consolidation shall be divided into districts of as equal population as possible so that at least a majority of the members of the council are elected by district. The division shall be made by the county board members of each county involved by January 31 of the year in which the council members are to be elected. A majority of the council members shall constitute a quorum for the purpose of transacting business. The council shall annually elect a chairperson from among its members. Each council member shall be elected to a four-year term beginning with the first general election following the formation, except that at the first election, fifty to sixty percent of the members shall be elected to four-year terms and the others shall be elected to two-year terms. If there are to be at-large members, the district-elected members shall be elected to four-year terms and the at-large members shall be elected to two-year terms. If there are to be no at-large members, the members elected to four-year terms and the members elected to two-year terms shall be selected by lot.

(b) A municipal county created under section 1 of this act, in which is situated a city of the metropolitan class, shall be governed by a council of fifteen members who shall be elected by districts. The council members shall be elected on a nonpartisan ballot. The area involved in the consolidation shall be divided into fifteen council districts of compact and contiguous territory. Such districts shall be numbered consecutively from one to fifteen. One council member shall be elected from each district. The division shall be made by the county board members of each county involved, by January 31 of the year in which the council members are to be elected. Each council member shall be elected to a four-year term, except that at the first general election following the formation, the members elected from even-numbered districts shall be elected to four-year terms and members elected from odd-numbered districts shall be elected to two-year terms and to four-year terms thereafter. A majority of the council members shall constitute a quorum for the purpose of transacting business. The council shall annually elect a chairperson from among its members. The council shall be responsible for redrawing the council district boundaries pursuant to section 32-553.

(c) Initial elections of the council members and the executive officer, if applicable, shall be completed by May 15 of the year the municipal county is created.

(2) If the plan to create the municipal county provides for an executive officer to operate the executive functions of the municipal county,

the executive officer shall be elected to a four-year term beginning with the first general election following the formation of the municipal county.

(3) The resolution proposing creation of the municipal county may retain, as an elected position, any elected county office in any county to be consolidated into the municipal county. If such elected officials are to be retained, the officials in such offices at the time the municipal county is created may be retained or, if more than one such elected official are in office at the time the municipal county is created, the officials shall be elected together with the council members and executive officer of the municipal county.

Sec. 4. (1) A municipal county has the powers and duties of a county and shall fulfill the same role as other counties and county officials of the municipal county as would be applicable to a county of the same population as the municipal county. Any reference in law to counties shall be deemed to refer to a municipal county. A municipal county has the powers and duties of cities and villages as would be applicable to the largest municipality consolidated into the municipal county. Any reference in law to cities, villages, or municipalities shall be deemed to apply also to a municipal county.

(2) On the date of creation of a municipal county, all ordinances, bylaws, acts, motions, rules, resolutions, and proclamations enacted by the governing body of each county or municipality involved shall continue in full force and effect, with respect to the counties and municipalities consolidated into the municipal county, until amended, repealed, or otherwise superseded by the council of the municipal county. All obligations, leases, and contracts of the counties or municipalities consolidated into the municipal county, except for bonded indebtedness, shall become obligations, leases, and contracts of the municipal county. In the event any utility, lease, franchise, or service area agreement has been entered into by or is applicable to a county or municipality involved, the utility, lease, franchise, or service area agreement shall be unaffected by the creation of the municipal county and unchanged by the elimination of the municipal or county boundaries. In the event any service area or territory in which powers of a political subdivision could be exercised or boundaries of a political subdivision were previously defined by reference, in whole or in part, to the boundaries of a participating municipality or county, the boundaries of such service area or territory or political subdivision, and the exercise of the powers of the political subdivision, shall be unaffected by the creation of a municipal county and unchanged by the elimination of the municipal or county boundaries.

Sec. 5. (1) A municipal county may adopt ordinances, and any such ordinances shall supersede those of any municipality or county consolidated into the municipal county.

(2) All ordinances shall be passed pursuant to such rules and regulations as the council may provide, and all such ordinances may be proved by the certificate of the council. When printed or published in book or pamphlet form and purporting to be published by authority of the municipal county, such ordinances shall be read and received in evidence in all courts and places without further proof. The passage, approval, and publication or posting of an ordinance shall be sufficiently proved by a certificate from the council showing that the ordinance was passed and approved and when and in what newspaper the ordinance was published or when, by whom, and where the ordinance was posted. When ordinances are published in book or pamphlet form, purporting to be published by authority of the council, the same need not be otherwise published, and the book or pamphlet shall be received as evidence of the passage and legal publication of the ordinances, as of the dates mentioned in the book or pamphlet, in all courts without further proof.

Sec. 6. (1) All ordinances and resolutions or orders for the appropriation or payment of money shall require for their passage or adoption the concurrence of a majority of all members of the council.

(2) Ordinances of a general or permanent nature shall be read by title on three different days unless three-fourths of the members vote to suspend this requirement.

(3) Ordinances shall contain no subject which is not clearly expressed in the title, and, except as provided in section 19-915, no ordinance or section thereof shall be revised or amended unless the new ordinance contains the entire ordinance or section as revised or amended and the ordinance or section so amended is repealed, except that for an ordinance revising all the ordinances of the municipal county the only title necessary shall be: "An ordinance of the municipal county of, revising all the ordinances of the municipal county." Under such title, all the ordinances may be revised in sections and chapters or otherwise, may be corrected, added to, and any part suppressed, and may be repealed with or without a saving

clause as to the whole or any part without other title.

Sec. 7. The style of ordinances shall be: "Be it ordained by the council of the municipal county of, " and all ordinances of a general nature shall, within fifteen days after they are passed, be published in one or more newspapers in general circulation within the municipal county, or in pamphlet form, to be distributed or sold, as may be provided by ordinance. Every ordinance fixing a penalty or forfeiture for its violation shall, before the same takes effect, be published for at least one week in one or more newspapers in general circulation within the municipal county. In cases of riots, infectious diseases, or other impending danger, or any other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the council immediately upon its first publication.

Sec. 8. A municipal county may levy up to one dollar per one hundred dollars of taxable value, not including bonded indebtedness. From the levy authority of the municipal county, the municipal county may allocate to miscellaneous political subdivisions as provided in section 77-3443. In no event shall the levies of the municipal county and any miscellaneous political subdivisions allocated levy authority by the municipal county total more than one dollar per one hundred dollars of taxable value on any one parcel in the municipal county, except for bonded indebtedness approved according to law, lease-purchase agreements approved prior to July 1, 1998, and judgments obtained against the municipal county or one of its predecessors which obligate the municipal county to pay the judgments to the extent not paid by liability insurance and except as provided in section 77-3444.

Sec. 9. (1) An area within the boundaries of a municipality which remains within the boundaries of a municipal county and is not consolidated into the municipal county at the time of the formation of the municipal county shall not be considered to be part of the municipal county for any purpose. Such a municipality shall not be annexed by the municipal county, and such a municipality shall not annex any territory, for at least four years after the date of creation of the municipal county. Such a municipality shall retain:

(a) The authority to levy property taxes, not to exceed ninety cents per one hundred dollars of taxable value except as provided in sections 77-3442 and 77-3444; and

(b) All the other powers and duties applicable to a municipality of the same population with the same form of government in effect on the date of creation of the municipal county, including, but not limited to, its zoning jurisdiction and the authority to impose a tax as provided in the Local Option Revenue Act.

(2) In order to provide economical and efficient services, a municipality within the boundaries of a municipal county may annex adjacent territory within the municipal county if the municipal county consents. Consent shall be granted if the services will be provided by the municipality within the annexed territory at less cost than similar services provided by the municipal county.

(3) All fire protection districts subject to municipal county levy authority under section 77-3443 which are within the boundaries of a municipal county shall continue to exist after formation of the municipal county.

Sec. 10. (1) The powers granted by sections 1 to 9 of this act shall not be exercised unless and until the question has been submitted at a primary, general, or special election held within the county or counties involved and in which registered voters within the boundaries of the proposed municipal county are entitled to vote on such question. The ballot question may combine the issues of creation of the municipal county, the merger of the county or counties and its offices, the merger of each municipality proposed to be merged, and the authorization of a local sales and use tax under section 13 of this act.

(2) The officials of each county and each municipality seeking to form the municipal county shall order the submission of the question for creation by submitting a certified copy of the resolution calling for creation to the election commissioner or county clerk. The question may include any terms or conditions set forth in the resolution, such as the timing of the consolidation implementation, the number and method of election of council members, and any proposed name for the municipal county, and shall specifically state any offices to be eliminated.

(3) The election commissioner or county clerk shall give notice of the submission of the question not more than thirty days nor less than ten days before the election by publication one time in one or more newspapers published in or of general circulation within the boundaries of the proposed municipal county in which the question is to be submitted. This notice is in addition to any other notice required under the Election Act.

(4)(a) The vote shall be tabulated for (i) all those voting on the

question, (ii) those voting who reside in each county and any municipality which would be consolidated into the municipal county, (iii) those voting who reside in each county but outside any municipality, and (iv) those voting who reside in each county but outside any municipality or any sanitary and improvement district.

(b) If a majority of those voting on the question, a majority of those voting who reside in at least one county to be consolidated, a majority of those voting who reside in at least one municipality which is in one county voting in favor of consolidation, a majority of those voting who reside in areas in the county to be consolidated which are outside any municipality to be consolidated, and a majority of those voting who reside in each county but outside any municipality or any sanitary and improvement district vote in favor of consolidation, the municipal county shall be deemed to be created for each county and municipality which had a majority of those voting in favor of consolidation according to the terms of the resolution. If no date of creation is provided in the resolution, the municipal county shall be deemed to be created on the following July 1. Any county in which a majority of those voting approve the consolidation shall be deemed to be abolished, and any municipality in such county which was proposed to be consolidated and in which a majority of those voting who reside in such municipality approve the consolidation shall be deemed to be abolished.

(c) The municipal county shall not be created (i) if a majority of those voting on the question are opposed, (ii) if a majority of those voting who reside in every county to be consolidated are opposed, (iii) if a majority of those voting who reside in every municipality to be consolidated which is in a county which approved are opposed, (iv) if a majority of those voting who reside in areas in a county which approved which are outside any municipality are opposed, or (v) if a majority of those voting who reside in a county which approved but outside any municipality or sanitary and improvement district are opposed.

(5) If a municipality within the boundaries of a municipal county is not a part of the municipal county either because the governing body of the municipality did not approve the resolution seeking inclusion or because the voters of the municipality disapproved the consolidation, the municipality may later seek inclusion into an existing municipal county by passing a resolution seeking inclusion and approval by those voting at a primary, general, or special election. The officials of the municipality shall deliver a certified copy of the resolution to the appropriate officer of the municipal county proposing inclusion. If a majority of those voting in the municipality approve inclusion and a majority of the elected council members of the municipal county vote to approve inclusion of such municipality, the municipality shall be merged into the municipal county. If a majority of those voting in the municipality disapprove or a majority of the elected council members of the municipal county do not vote to approve inclusion of such municipality, it shall not be merged.

(6) Any election under this section shall be conducted in accordance with the procedures provided in the Election Act.

Sec. 11. Approval of the formation of a municipal county shall abolish all county and municipal offices at the end of the then current officeholders' terms except as provided in subsection (3) of section 3 of this act and shall terminate all townships located within the municipal county. All debt of abolished counties and municipalities consolidated into a municipal county shall remain the responsibility of the county or municipality responsible at the time consolidation is approved.

Sec. 12. (1) A municipal county may be dissolved by submitting the question of dissolution at a primary, general, or special election held within the county or counties involved and in which all registered voters are entitled to vote on such question. The ballot question may combine the issues of dissolution of the municipal county, the division of the municipal county into the county or counties and its offices, and the division of each merged municipality. The process of dissolving a municipal county shall begin by passage of a resolution by the council of the municipal county. The resolution may be initiated by the council or by petition as provided in subsection (2) of this section.

(2) Whenever registered voters of the municipal county, equal in number to ten percent of the total vote cast for Governor in the municipal county at the preceding election, petition the council to pass a resolution as contemplated by this section, it shall be the duty of the council to pass a resolution creating a dissolution planning commission. Petitions shall be filed with the election official. The election official shall ascertain the number of registered voters signing such petitions and transmit his or her findings, along with the petition, to the council.

(3) Within ninety days after the passage of the resolution or within ninety days after receipt of a petition by the registered voters, the council shall create a dissolution planning commission. A commission may also be created by the district court having jurisdiction over the municipal county upon the failure by the municipal county to pass a resolution after submission of a petition by the registered voters. The commission shall have no less than nine members and no more than twenty-one members representing the proposed counties and proposed municipalities to be reestablished as determined by the council in order to achieve proportionate representation. The council shall select the members. Representation on the commission shall be prorated based upon population of the proposed counties and proposed municipalities involved, except that (a) each proposed county and each proposed municipality involved shall have at least one representative selected by the council and (b) not more than forty percent of the total membership shall be public officials. Meetings of the commission shall be subject to sections 84-1408 to 84-1414.

(4) The commission shall hold at least one public hearing prior to preparing the plan for the dissolution of the municipal county, study the affected area, and then make a determination of whether dissolution of a municipal county is in the public interest. If it is not in the public interest to do so, the commission shall issue a report stating its findings. If it is in the public interest to do so, the commission shall prepare one plan for the dissolution of the municipal county. Such plan shall be approved by the council prior to submission of the issue to a vote of the registered voters unless the commission was created by a petition of the registered voters. The plan shall specify (a) which counties and municipalities will be reestablished upon dissolution of the municipal county, and (b) which elected officials, if any, will be reestablished. At least ninety days prior to submission of the issue to a vote of the registered voters, the commission and the council shall hold at least one public hearing in each county and municipality proposed to be reestablished and make available for review by residents of the municipal county all material terms and conditions set forth in the resolution to dissolve the municipal county, including information regarding the tax implications and quality and cost of services to be provided by the proposed plan to dissolve the municipal county.

(5) Upon approval of the plan by the council, if required, or upon the council's approval or failure to approve if the commission was created by a petition of registered voters, the election official shall place the issue on the ballot at the next primary, general, or special election. The question may include any terms or conditions set forth in the resolution, such as the services to be provided by the municipalities and the timing of the dissolution implementation, and shall include any offices to be reestablished.

(6) The election official shall give notice of the submission of the question not more than thirty days nor less than ten days before the election by publication one time in one or more newspapers published in or of general circulation in the municipal county in which the question is to be submitted. This notice is in addition to any other notice required under the Election Act.

(7) The vote shall be tabulated in each municipality which is proposed to be created by the dissolution separately from the areas outside the boundaries of the proposed municipalities. If a majority of those voting on the question in the area within the boundaries of any proposed municipality and the areas outside the proposed municipalities vote in favor of dissolution, the municipal county shall be deemed to be dissolved according to the terms of the resolution. If the dissolution is not approved by a majority of those voting in the election in the area within the boundaries of any proposed municipality or the areas outside the proposed municipalities, the dissolution shall be deemed rejected.

(8) Any election under this section shall be conducted in accordance with the procedures provided in the Election Act.

Sec. 13. (1) A municipal county by ordinance of its council may impose a sales and use tax of one-half percent, one percent, or one and one-half percent upon the same transactions within the entire municipal county on which the state is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time.

(2) A municipal county shall not impose a new sales and use tax, increase the tax, or extend the territory of an existing sales and use tax until an election is held and a majority of the registered voters as provided in section 10 of this act have approved the tax, increase, or extension. The ballot issue proposing approval of a new sales and use tax or the increase or territorial extension of an existing sales and use tax may be combined with the issue proposing creation of a municipal county.

Sec. 14. (1) The Tax Commissioner shall administer all sales and use taxes adopted under section 13 of this act. The Tax Commissioner may prescribe forms and adopt and promulgate rules and regulations in conformity with the Nebraska Revenue Act of 1967, as amended, for the making of returns and for the ascertainment, assessment, and collection of taxes. The council shall furnish a certified copy of the adopting or repealing resolution to the Tax Commissioner in accordance with such rules and regulations. The tax shall begin the first day of the next calendar quarter following receipt by the Tax Commissioner of the certified copy of the adopted resolution if the certified copy of the adopted resolution is received sixty days prior to the start of the next calendar quarter.

(2) For resolutions containing a termination date, the termination date is the first day of a calendar quarter. The council shall furnish a certified statement to the Tax Commissioner no more than one hundred twenty days and at least sixty days before the termination date stating that the termination date in the resolution is still valid. If the certified statement is not furnished within the prescribed time, the tax shall remain in effect and the Tax Commissioner shall continue to collect the tax until the first day of the calendar quarter which is at least sixty days after receipt of the certified statement notwithstanding the termination date stated in the resolution.

(3) The Tax Commissioner shall collect the sales and use tax 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 municipal county imposing the tax, after deducting the amount of refunds made and three percent of the remainder as an administrative fee necessary to defray the cost of collecting the tax and the expenses incident thereto. The Tax Commissioner shall keep full and accurate records of all money received and distributed. All receipts from the three percent administrative fee shall be deposited in the Municipal Equalization Fund.

(4) Upon any claim of illegal assessment and collection, the taxpayer has the same remedies as provided for claims of illegal assessment and collection of the state tax. It is the intention of the Legislature that the provisions of law which apply to the recovery of state taxes illegally assessed and collected apply to the recovery of sales and use taxes illegally assessed and collected under section 13 of this act.

Sec. 15. The proceeds of the sales and use tax imposed by a municipal county under section 13 of this act shall be distributed to the municipal county for deposit in its general fund.

Sec. 16. (1) All relevant provisions of the Nebraska Revenue Act of 1967, as amended, not inconsistent with sections 13 to 15 of this act, shall govern transactions, proceedings, and activities pursuant to any sales and use tax imposed by a municipal county.

(2) For purposes of the sales and use tax imposed by a municipal county, all retail sales, rentals, and leases, as defined and described in the Nebraska Revenue Act of 1967, are consummated:

(a) At the place where title, possession, or segregation takes place, with the exception of sales or leases or rentals for more than one year of motor vehicles, trailers, semitrailers, and motorboats, if a purchaser takes possession of tangible personal property within a municipal county, which has enacted a tax under section 13 of this act, regardless of the business location of the Nebraska retailer;

(b) At the point of delivery of utility services and community antenna television services or where such services are provided, with the exception that Nebraska intrastate message toll telephone and telegraph services which are consummated in the county where the customer is normally billed for such services;

(c) At the physical location of individual vending machines; and

(d) At the place designated on the application for registration for motor vehicles, trailers, semitrailers, and motorboats sold or leased or rented for more than one year.

Sec. 17. (1) Any municipality that is within the boundaries of a municipal county that is not merged into the municipal county shall be required to pay the municipal county for services that were previously provided by the county and are not ordinarily provided by a municipality. Except as provided in subsection (2) of this section, the amount paid shall be equal to the attributable cost of county services times a ratio, the numerator of which is the total valuation of all municipalities that are within the boundaries of the municipal county and the denominator of which is the total valuation of the municipal county and all municipalities and unconsolidated sanitary and improvement districts that are within the boundaries of the municipal county that are not merged into the municipal county, times a ratio

the numerator of which is the valuation of the particular municipality and the denominator of which is the total valuation of all municipalities that are within the boundaries of the municipal county, except that (a) the amount paid shall not exceed the total taxable valuation of the municipality times forty-five hundredths of one percent and (b) the municipality shall not be required to pay the municipal county for fire protection or ambulance services.

(2) The amount paid for law enforcement by a municipality that is within the boundaries of a municipal county but is not merged into the municipal county shall be as follows: (a) If the county did not provide law enforcement services prior to the formation of the municipal county or if the municipality continues its own law enforcement services after formation of the municipal county, the total cost of services budgeted by the municipal county for law enforcement shall be the net cost of services that are the express and exclusive duties and responsibilities of the county sheriff by law times the same ratios calculated in subsection (1) of this section; (b) if the municipality discontinues providing law enforcement services after the formation of the municipal county (i) the municipal county shall provide a level of service in such municipality that is equal to the level provided in the area or areas of the municipal county that were municipalities prior to the formation of the municipal county and (ii) the municipality shall pay the municipal county for the cost of county services for law enforcement as calculated in subsection (1) of this section, except that for the first five years, the amount shall be no more than the amount budgeted by the municipality for law enforcement services in the last year the municipality provided the services for itself; and (c) if the municipal county has deputized the police force of the municipality to perform the express and exclusive duties and responsibilities of the county sheriff by law, there shall be no amount paid to the municipal county for law enforcement services.

(3) Disputes regarding the amounts any municipality that is within the boundaries of a municipal county that is not merged into the municipal county must pay to the municipal county for services that were previously provided by the county and are not ordinarily provided by a municipality shall be heard in the district court of such municipal county.

(4) For purposes of this section and section 18 of this act, attributable cost of county services means the total budgeted cost of services that were previously provided by the county for the immediately prior fiscal year times a ratio, the numerator of which is the property tax request of the municipal county or the county and all cities to be consolidated for the prior fiscal year, not including any tax for bonded indebtedness, and the denominator of which is the total of the restricted funds as defined in section 13-518 plus inheritance taxes, fees, and charges and other revenue that were budgeted for the immediately prior fiscal year by the municipal county or the county and all cities to be consolidated.

Sec. 18. (1) Sanitary and improvement districts located within a municipal county created under sections 1 to 19 of this act, unless consolidated into a municipal county in accordance with section 19 of this act, shall be deemed to be unconsolidated sanitary and improvement districts and shall continue to exist after approval of the formation of the municipal county except as provided in this section.

(2) An unconsolidated sanitary and improvement district shall have and retain its authority to levy property taxes, and the municipal county shall have no authority to levy property taxes on the lands within an unconsolidated sanitary and improvement district other than for bonded indebtedness incurred by the county prior to creation of the municipal county. The area of the unconsolidated sanitary and improvement district shall not be considered to be within the municipal county except as provided by law.

(3) Parcels of land which are contiguous to each other and are included within the municipal county, but not included in an unconsolidated municipality, may be included in a sanitary and improvement district with the approval of the council of the municipal county.

(4) Each unconsolidated sanitary and improvement district shall pay the municipal county for services that were previously provided by the county. The amount paid shall be equal to the attributable cost of county services times a ratio, the numerator of which is the total valuation of all unconsolidated sanitary and improvement districts that are within the boundaries of the municipal county and the denominator of which is the total valuation of the municipal county and all unconsolidated sanitary and improvement districts and unconsolidated municipalities that are within the boundaries of the municipal county, times a ratio the numerator of which is the valuation of the particular unconsolidated sanitary and improvement district and the denominator of which is the total valuation of all

unconsolidated sanitary and improvement districts that are within the boundaries of the municipal county, except that the amount paid shall not exceed the total taxable valuation of the unconsolidated sanitary and improvement district times forty-five hundredths of one percent. Any disputes arising under this subsection shall be heard in the district court of such municipal county.

(5) Unless the unconsolidated sanitary and improvement district is located wholly within the extraterritorial zoning jurisdiction of an unconsolidated municipality, an unconsolidated sanitary and improvement district shall be deemed to be within the zoning jurisdiction of the municipal county.

(6) Any municipal county sales and use tax that has been approved under section 13 of this act shall be imposed upon transactions within the entire municipal county, including all unconsolidated sanitary and improvement districts.

Sec. 19. A municipal county may by ordinance cause any unconsolidated sanitary and improvement district located (1) within the extraterritorial zoning jurisdiction of an unconsolidated municipality with the consent of the governing body of the unconsolidated municipality, or (2) within any portion of the municipal county, to be consolidated, in whole or part, into the municipal county, and thereafter the municipal county shall succeed to the property and property rights of every kind, contracts, obligations, and choses in action of every kind, held by or belonging to the sanitary and improvement district, and the municipal county shall be liable for and recognize, assume, and carry out the valid contracts and obligations of the district. Any such consolidation, in whole or in part, shall be accomplished by the municipal county and the sanitary and improvement district in accordance with sections 31-763 to 31-766, and other applicable law, as if the municipal county were a city and the consolidation were an annexation or partial annexation.

Sec. 20. Section 9-625, Reissue Revised Statutes of Nebraska, is amended to read:

9-625. Any county, city, or village may establish and conduct a lottery if an election is first held pursuant to this section. Only one scheme or type of lottery may be conducted by a county, city, or village at one time. No county, city, or village shall establish and conduct a lottery until such course of action has been approved by a majority of the registered voters of such county, city, or village casting ballots on the issue at a regular election or a special election called by the governing board of the county, city, or village for such purpose. This section shall not be construed to prohibit any county, city, or village from conducting a lottery if such course of action was approved prior to July 17, 1986, by a majority of the registered voters of such county, city, or village casting ballots on the issue.

Any lottery established pursuant to this section which is authorized by an election held on or after October 1, 1989, pursuant to this section that is not in operation for any four consecutive years shall no longer be authorized under this section. If the voters in a county, city, or village approve a lottery on or after October 1, 1989, pursuant to this section but the lottery does not actually begin operation within four years of the date that the results of the election are certified, the lottery shall no longer be authorized under this section. Any lottery no longer authorized under this section because it did not operate within the four-year period provided in this section may be reauthorized by a majority vote of the registered voters of the county, city, or village casting ballots on the issue at a subsequent election pursuant to this section.

Except for any restriction imposed pursuant to section 9-643, any county, city, or village may conduct a lottery only within the boundaries of such county, city, or village, or within a licensed racetrack enclosure which abuts the corporate limits thereof or which is within the zoning jurisdiction of a city, except that nothing in this section shall prohibit a county, city, or village from entering into an agreement pursuant to the Interlocal Cooperation Act to conduct a joint lottery with another county, city, or village which has established a lottery in accordance with this section.

If any county, city, or village is conducting a lottery at the time it is consolidated into a municipal county and such county, city, or village is abolished as of the date of creation of the municipal county, the municipal county shall be subject to the same rights and obligations with respect to such lottery or lotteries as the counties, cities, and villages which were abolished, including any rights or obligations under lottery contracts of such counties, cities, and villages. Such lottery shall continue to be subject to all other provisions of the Nebraska County and City Lottery Act, except that

such lottery shall not be expanded to any new location in any area of the municipal county where such lottery was not previously authorized before the consolidation unless such expansion has been approved by a majority of the registered voters of such municipal county voting at a regular election or a special election called by the governing board of the municipal county for such purpose.

Sec. 21. Section 10-127, Revised Statutes Supplement, 2000, is amended to read:

10-127. The State Highway Commission, any county, city, village, municipal county, school district, drainage district, irrigation district, public power district, public power and irrigation district, metropolitan utilities district, the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, community colleges, sanitary and improvement districts, rural water districts, airport authorities, hospital authorities, or any other municipal corporation or governmental subdivision of the state which has the power to issue bonds or other evidences of indebtedness may issue bonds or other evidences of indebtedness of like date, tenor, amount, and maturity to replace mutilated, destroyed, stolen, or lost bonds or other evidences of indebtedness previously issued and having attached thereto the same corresponding unmatured coupons, if any, as were attached to the mutilated, destroyed, stolen, or lost bonds or other evidences of indebtedness. Issuance of replacement bonds or other evidences of indebtedness of like date, tenor, amount, and maturity may be made (1) in exchange and in substitution for such mutilated bond or other evidence of indebtedness and attached unmatured coupons, if any, upon surrender of such mutilated bond or other evidence of indebtedness and attached unmatured coupons, if any, or (2) in lieu of and in substitution for the destroyed, stolen, or lost bond or other evidence of indebtedness and attached unmatured coupons. In the event such bond or other evidence of indebtedness and attached unmatured coupons, if any, have been destroyed, stolen, or lost, the holder thereof shall first file with the issuer evidence satisfactory to it that such bond or other evidence of indebtedness and attached unmatured coupons have been destroyed, stolen, or lost and of such holder's ownership thereof and shall in any event furnish the issuer with indemnity satisfactory to it and shall comply with any statutory requirements and with such other requirements as the issuer may require. A charge, not exceeding the actual cost thereof, shall be imposed upon such owner to reimburse the issuer for the expenses for issuing each such new bond or evidence of indebtedness, which cost shall be paid before the delivery of the new bond or evidence of indebtedness. Instead of issuing a substituted bond or evidence of indebtedness or instead of delivery of any coupon for a bond or evidence of indebtedness, as the case may be, which has matured or which is about to mature and instead of issuing a substituted bond or other evidence of indebtedness for a bond or other evidence of indebtedness which has been called for redemption, the issuer, upon receiving evidence and being indemnified as provided in this section, at its option may pay the bond or other evidence of indebtedness or such coupon from any source lawfully available therefor without the surrender thereof.

Sec. 22. Section 10-131, Reissue Revised Statutes of Nebraska, is amended to read:

10-131. Notwithstanding any other provisions of the statutes of the State of Nebraska with respect to the issuance of bonds, interest coupons, and other evidence of indebtedness by any county, city, village, municipal county, school district, public power district, public power and irrigation district, airport authority, sanitary and improvement district, or any other municipal corporation or political subdivision, if any bond or other evidence of indebtedness is signed by more than one officer of such issuer, one of the signatures shall be manually affixed thereto and the other signatures may be facsimile signatures of such officers, and with respect to any interest coupons appertaining to any bond or evidence of indebtedness, the signatures on such interest coupon may be facsimile signatures.

Sec. 23. Section 10-133, Reissue Revised Statutes of Nebraska, is amended to read:

10-133. Any county, city, village, municipal county, school district, public power district, public power and irrigation district, airport authority, sanitary and improvement district, or any other municipal corporation or political subdivision is hereby authorized to pay fiscal and consultant fees incurred with respect to issuance and sale of any bonds, notes, or other evidence of indebtedness out of the proceeds from the sale of such bonds or any other funds available to the issuer, and such payment shall not constitute or be considered as a discount with respect to the sale price of the bonds, notes, or other evidence of indebtedness.

Sec. 24. Section 10-142, Reissue Revised Statutes of Nebraska, is amended to read:

10-142. Any county, city, village, municipal county, school district, drainage district, irrigation district, metropolitan utilities district, rural water district, airport authority, or hospital authority, the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, the governing board of any community college, or any other municipal or public corporation, governmental subdivision, or body politic or corporate created under Nebraska law exercising essential public functions of the state which has issued or shall issue bonds for any purpose, and such bonds or any part of such bonds remain unpaid and are a legal liability against such issuer and are bearing interest, is hereby authorized to issue refunding bonds with which to call and redeem all or any part of such outstanding bonds at or before the maturity or the redemption date of such bonds. Such issuer may include various series and issues of the outstanding bonds in a single issue of refunding bonds and issue refunding bonds to pay any redemption premium and interest to accrue and become payable on the outstanding bonds being refunded. The refunding bonds may be issued and delivered at any time prior to the date of maturity or the redemption date of the bonds to be refunded that the governing body of such issuer determines to be in its best interests. The proceeds derived from the sale of the refunding bonds issued pursuant to this section may be invested in obligations of or guaranteed by the United States Government pending the time the proceeds are required for the purposes for which such refunding bonds were issued. To further secure the refunding bonds, any such issuer may enter into a contract with any bank or trust company within or without the state with respect to the safekeeping and application of the proceeds of the refunding bonds and the safekeeping and application of the earnings on the investment. All bonds issued under the provisions of this section shall be redeemable at such times and under such conditions as the governing body of the issuer shall determine at the time of issuance.

Any outstanding bonds or other evidences of indebtedness issued by any such issuer for which sufficient funds or obligations of or guaranteed by the United States Government have been pledged and set aside in safekeeping to be applied for the complete payment of such bonds or other evidence of indebtedness at maturity or upon redemption prior to maturity, interest thereon, and redemption premium, if any, shall not be considered as outstanding and unpaid.

Each new refunding bond so issued shall state on the bond (1) the object of its issue, (2) this section or sections of the law under which such issue was made, including a statement that the issue is made in pursuance of such section or sections, and (3) the date and principal amount of the bond or bonds for which the refunding bonds are being issued.

Sec. 25. Section 13-503, Revised Statutes Supplement, 2000, is amended to read:

13-503. For purposes of the Nebraska Budget Act, unless the context otherwise requires:

(1) Governing body shall mean the governing body of any county agricultural society, elected county fair board, joint airport authority formed under the Joint Airport Authorities Act, city or county airport authority, cemetery district, city, village, municipal county, community college, community redevelopment authority, county, drainage or levee district, educational service unit, rural or suburban fire protection district, historical society, hospital district, irrigation district, natural resources district, nonprofit county historical association or society for which a tax is levied under subsection (1) of section 23-355.01, public building commission, railroad transportation safety district, reclamation district, road improvement district, rural water district, school district, sanitary and improvement district, township, offstreet parking district, transit authority, metropolitan utilities district, and political subdivision with the authority to have a property tax request or that receives state aid;

(2) Levying board shall mean any governing body which has the power or duty to levy a tax;

(3) Fiscal year shall mean the twelve-month period used by each governing body in determining and carrying on its financial and taxing affairs;

(4) Tax shall mean any general or special tax levied against persons, property, or business for public purposes as provided by law but shall not include any special assessment;

(5) Auditor shall mean the Auditor of Public Accounts;

(6) Cash reserve shall mean funds required for the period before revenue would become available for expenditure but shall not include funds

held in any special reserve fund;

(7) Public funds shall mean all money, including nontax money, used in the operation and functions of governing bodies. For purposes of a county, city, or village which has a lottery established under the Nebraska County and City Lottery Act, only those net proceeds which are actually received by the county, city, or village from a licensed lottery operator shall be considered public funds, and public funds shall not include amounts awarded as prizes;

(8) Adopted budget statement shall mean a proposed budget statement which has been adopted or amended and adopted as provided in section 13-506. Such term shall include additions, if any, to an adopted budget statement made by a revised budget which has been adopted as provided in section 13-511;

(9) Special reserve fund shall mean any special fund set aside by the governing body for a particular purpose and not available for expenditure for any other purpose. Funds created for (a) the retirement of bonded indebtedness, (b) the funding of employee pension plans, (c) the purposes of the Political Subdivisions Self-Funding Benefits Act, (d) the purposes of the Local Option Municipal Economic Development Act, (e) voter-approved sinking funds, or (f) statutorily authorized sinking funds shall be considered special reserve funds;

(10) Biennial period shall mean the two fiscal years comprising a biennium commencing in odd-numbered years used by a city in determining and carrying on its financial and taxing affairs; and

(11) Biennial budget shall mean a budget by a city of the primary or metropolitan class that adopts a charter provision providing for a biennial period to determine and carry on the city's financial and taxing affairs.

Sec. 26. Section 13-804, Reissue Revised Statutes of Nebraska, is amended to read:

13-804. (1) Any power or powers, privileges, or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges, and authority conferred by the Interlocal Cooperation Act upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the Interlocal Cooperation Act. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The general organization, composition, and nature of any separate legal or administrative entity created by the agreement together with the powers delegated to the entity;

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) The manner of levying, collecting, and accounting for any tax authorized under sections 13-318 to 13-326 ~~beginning July 1, 1998~~ or sections 13 to 16 of this act; and

(g) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items enumerated in subsection (3) of this section, contain the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, the public agencies party to the agreement shall be represented; and

(b) The manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

(5) No agreement made pursuant to the Interlocal Cooperation Act shall relieve any public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance by a joint board or other legal or administrative entity created by an agreement made pursuant to the act, which performance may be offered in satisfaction of the obligation or responsibility.

(6) In the event that an agreement made pursuant to this section

creates a joint entity, such joint entity shall be subject to control by its members in accordance with the terms of the agreement; shall constitute a separate public body corporate and politic of this state, exercising public powers and acting on behalf of the public agencies which are parties to such agreement; and shall have power (a) to sue and be sued, (b) to have a seal and alter the same at pleasure or to dispense with its necessity, (c) to make and execute contracts and other instruments necessary or convenient to the exercise of its powers, and (d) from time to time, to make, amend, and repeal bylaws, rules, and regulations, not inconsistent with the Interlocal Cooperation Act and the agreement providing for its creation, to carry out and effectuate its powers and purposes.

(7) No entity created by local public agencies pursuant to the Interlocal Cooperation Act shall be considered a state agency, and no employee of such an entity shall be considered a state employee.

Sec. 27. Section 13-2202, Reissue Revised Statutes of Nebraska, is amended to read:

13-2202. For purposes of the Local Government Miscellaneous Expenditure Act:

(1) Elected and appointed officials and employees shall mean the elected and appointed officials and employees of any local government;

(2) Governing body shall mean, in the case of a city of any class, the council; in the case of a village, cemetery district, community hospital for two or more adjoining counties, county hospital, road improvement district, sanitary drainage district, or sanitary and improvement district, the board of trustees; in the case of a county, the county board; in the case of a municipal county, the council; in the case of a township, the town board; in the case of a school district, the school board; in the case of a rural or suburban fire protection district, reclamation district, natural resources district, or hospital district, the board of directors; in the case of a health district, the board of health; in the case of an educational service unit, the board; in the case of a community college, the Community College Board of Governors for the area the board serves; in the case of an airport authority, the airport authority board; in the case of a weed control authority, the board; and in the case of a county agricultural society, the board of governors;

(3) Local government shall mean cities of any class, villages, cemetery districts, community hospitals for two or more adjoining counties, county hospitals, road improvement districts, counties, townships, sanitary drainage districts, sanitary and improvement districts, school districts, rural or suburban fire protection districts, reclamation districts, natural resources districts, hospital districts, health districts, educational service units, community colleges, airport authorities, weed control authorities, and county agricultural societies;

(4) Public funds shall mean such public funds as defined in section 13-503 as are under the direct control of governing bodies of local governments;

(5) Public meeting shall mean all regular, special, or called meetings, formal or informal, of any governing body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the governing body; and

(6) Volunteer shall mean a person who is not an elected or appointed official or an employee of a local government and who, at the request or with the permission of the local government, engages in activities related to the purposes or functions of the local government or for its general benefit.

Sec. 28. Section 13-2401, Revised Statutes Supplement, 2000, is amended to read:

13-2401. (1) For purposes of this section:

(a) Political subdivision includes villages, cities of all classes, counties, municipal counties, school districts, and all other units of local government, including entities created pursuant to the Interlocal Cooperation Act or Joint Public Agency Act. Political subdivision does not include any contractor with a political subdivision;

(b) Receiving entity means a political subdivision which receives transferred employees from a separate political subdivision; and

(c) Transferring entity means a political subdivision which is transferring employees to a separate political subdivision.

(2) For transfers involving a retirement system which maintains a defined benefit plan, the transfer value of the transferring employee's accrued benefit shall be calculated by one or both of the retirement systems involved as follows:

(a) If the retirement system of the transferring entity maintains a defined benefit plan, an initial benefit transfer value of the employee's

accrued benefit shall be determined by calculating the present value of the employee's retirement benefit based on the employee's years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the transferring entity so that the effect on the retirement system of the transferring entity will be actuarially neutral; and

(b) If the retirement system of the receiving entity maintains a defined benefit plan, the final benefit transfer value of the employee's accrued benefit shall be determined by calculating the present value of the employee's retirement benefit as if the employee were employed on the date of transfer and had completed the same amount of service with the same compensation as the employee actually completed at the transferring entity prior to transfer. The calculation shall then be based on the employee's assumed years of service as of the date of transfer and the other actuarial assumptions of the retirement system of the receiving entity so that the effect on the retirement system of the receiving entity will be actuarially neutral.

(3) A full-time or part-time employee of a transferring entity who becomes an employee of a receiving entity pursuant to a merger of services shall receive credit for his or her years of participation in the retirement system of the transferring entity for purposes of membership in the retirement system of the receiving entity.

(4) An employee referred to in subsection (3) of this section shall have his or her participation in the retirement system of the transferring entity transferred to the retirement system of the receiving entity through one of the following options:

(a) If the retirement system of the receiving entity maintains a defined contribution plan, the employee shall transfer all of his or her funds by paying to the retirement system of the receiving entity from funds held by the retirement system of the transferring entity an amount equal to one of the following: (i) If the retirement system of the transferring entity maintains a defined benefit plan, an amount not to exceed the initial benefit transfer value, leaving no funds attributable to the transferred employee within the retirement system of the transferring entity, or (ii) if the retirement system of the transferring entity maintains a defined contribution plan, an amount not to exceed the employee and employer accounts of the transferring employee plus earnings during the period of employment with the transferring entity. The employee shall receive eligibility and vesting credit for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the transferring entity. Payment shall be made within five years after employment begins with the receiving entity or prior to retirement, whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization; or

(b) If the retirement system of the receiving entity maintains a defined benefit plan, the employee shall transfer all of his or her funds out of the retirement system of the transferring entity to purchase service credits that will generate a final benefit transfer value not to exceed the employee's initial benefit transfer value in the retirement system of the transferring entity. After such purchase, the employee shall receive eligibility and vesting credit in the retirement system of the receiving entity for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the transferring entity. The amount to be paid by the member for such service credit shall equal the actuarial cost to the retirement system of the receiving entity for allowing such additional service credit to the employee. If any funds remain in the retirement system of the transferring entity after the employee has purchased service credits in the retirement system of the receiving entity, such remaining funds shall be rolled over into another qualified trust under section 401(a) of the Internal Revenue Code, an individual retirement account, or an individual retirement annuity. Payment shall be made within five years after the transfer of services, but prior to retirement, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

(5) The transferring entity, the receiving entity, and the employees who are being transferred may by binding agreement determine which parties will provide funds to pay any amount needed to purchase creditable service in the retirement system of the receiving entity sufficient to provide a final benefit transfer value not to exceed the employee's initial benefit transfer value, if the amount of a direct rollover from the retirement system of the transferring entity is not sufficient to provide a final benefit transfer value in the retirement system of the receiving entity.

(6) The retirement system of the receiving entity may accept cash

rollover contributions from a member who is making payment pursuant to this section if the contributions do not exceed the amount of payment required for the service credits purchased by the member and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified trust under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, all of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified trust under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days after the date of the distribution from the qualified trust, individual retirement account, or individual retirement annuity.

(7) Cash transferred to the retirement system of the receiving entity as a rollover contribution shall be deposited as other contributions.

(8) The retirement system of the receiving entity may accept direct rollover distributions made from a qualified trust pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(9) The receiving entity or its retirement system shall adopt provisions defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

(10) Any retirement system authorized pursuant to section 14-1805, 15-1017, 16-1004, 16-1023, 19-3501, or 23-1118 or section 36 of this act or any retirement system for a city of the metropolitan class authorized pursuant to home rule charter shall be modified to conform with this section prior to any merger of service involving such system.

Sec. 29. Section 13-2504, Revised Statutes Supplement, 2000, is amended to read:

13-2504. (1) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the Joint Public Agency Act. Appropriate action by ordinance, resolution, or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(2) Any such agreement shall specify the following:

(a) Its duration;

(b) The general organization, composition, and nature of any joint public agency created by the agreement together with the powers delegated to the entity;

(c) Its purpose or purposes;

(d) The manner of financing the joint undertaking and of establishing and maintaining a budget;

(e) The permissible method or methods to be employed in amending the agreement or accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination consistent with section 13-2518;

(f) The manner of levying, collecting, and accounting for any tax authorized under sections 13-318 to 13-326 or sections 13 to 16 of this act and any allocation of tax authority under section 13-2507; and

(g) Any other necessary and proper matters.

(3) No agreement made pursuant to the Joint Public Agency Act shall relieve any public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance by a joint public agency created by an agreement made pursuant to the act, which performance may be offered in satisfaction of the obligation or responsibility.

(4) Participating public agencies may transfer property, other assets, and employees to a joint public agency as provided in the agreement. Notwithstanding other provisions of law, if employees are transferred any vested employment rights shall be transferred with the employee and the employee shall be vested with the joint public agency at the time of transfer.

Sec. 30. Section 14-2116, Reissue Revised Statutes of Nebraska, is amended to read:

14-2116. (1) In addition to any other rights and powers conferred upon metropolitan utilities districts under sections 14-2101 to 14-2157, such districts shall have and may exercise the power of eminent domain for the purpose of erecting, constructing, locating, maintaining, or supplying such waterworks, gas works, or mains or the extension of any system of waterworks, water supply, gas works, or gas supply, and any such district may go beyond its territorial limits and may take, hold, or acquire rights, property, and real estate, or either or any of the same, by purchase or otherwise. Such a district may for such purposes take, hold, and condemn any and all necessary property. ~~Any such~~

(2) Any metropolitan utilities district shall have the power to condemn or to exercise the power of eminent domain to acquire parts of an existing utility's facilities only when such facilities are within, annexed to, or otherwise consolidated within the corporate boundary limits of a city of the metropolitan class. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724. Within a municipal county, the power to condemn or to exercise the power of eminent domain for purposes of this subsection may be exercised by a metropolitan utilities district to the extent and in the manner provided by the Legislature as required by section 2 of this act.

Sec. 31. Section 23-1118, Revised Statutes Supplement, 2000, is amended to read:

23-1118. (1)(a) Unless the county has adopted a retirement system pursuant to section 23-2329, the county board of any county having a population of one hundred fifty thousand inhabitants or more may, in its discretion and with the approval of the voters, provide retirement benefits for present and future employees of the county. The cost of such retirement benefits shall be funded in accordance with sound actuarial principles with the necessary cost being treated in the county budget in the same way as any other operating expense.

(b) Except as provided in subdivision (c) of this subsection, each employee shall be required to contribute, or have contributed on his or her behalf, an amount at least equal to the county's contribution to the cost of any such retirement program as to service performed after the adoption of such retirement program, but the cost of any benefits based on prior service shall be borne solely by the county.

(c) In a county or municipal county having a population of two hundred thousand or more inhabitants but not more than three hundred thousand inhabitants, the county or municipal county shall establish the employee and employer contribution rates to the retirement program for each year after July 15, 1992. The county or municipal county shall contribute at least an amount equal to each employee's mandatory contribution, if any, to the cost of any such retirement program and by January 1, 1996, shall be contributing one hundred fifty percent of each employee's mandatory contribution. The combined contributions of the county or municipal county and its employees to the cost of any such retirement program shall not exceed thirteen percent of the employees' salaries.

(2) Before the county board or council provides retirement benefits for the employees of the county or municipal county, such question shall be submitted at a regular general or primary election held within the county or municipal county, and in which election all persons eligible to vote for the ~~county~~ officials of the county or municipal county shall be entitled to vote on such question, which shall be submitted in the following language: Shall the county board or council provide retirement benefits for present and future employees of the county or municipal county? If a majority of the votes cast upon such question are in favor of such question, then the county board or council shall be empowered to provide retirement benefits for present and future employees as provided in this section. If such retirement benefits for present and future county and municipal county employees are approved by the voters and authorized by the county board or council, then the funds of such retirement system, in excess of the amount required for current operations as determined by the county board or council, may be invested and reinvested in the class of securities and investments described in section 30-3209.

(3) As used in this section, employees shall mean all persons or officers devoting more than twenty hours per week to employment by the county or municipal county, all elected officers of the county or municipal county, and such other persons or officers as are classified from time to time as permanent employees by the county board or council.

(4) The county or municipal county may pick up the member contributions required by this section for all compensation paid on or after January 1, 1985, and the contributions so picked up shall be treated as employer contributions in determining federal tax treatment under the Internal Revenue Code, except that the county or municipal county shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service or the federal courts rule that, pursuant to section 414(h) of the Internal Revenue Code, these contributions shall not be included as gross income of the member until such time as they are distributed or made available. The county or municipal county shall pay these member contributions from the same source of funds which is used in paying earnings to the member. The county or municipal county shall pick up these contributions by a salary deduction either through a reduction in the cash salary of the member or a combination of a reduction in salary and offset

against a future salary increase. Member contributions picked up shall be treated in the same manner and to the same extent as member contributions made prior to the date picked up.

(5)(a) Beginning December 31, 1998, and each December 31 thereafter, the chairperson of the county board or council with a retirement plan established pursuant to this section and section 401(a) of the Internal Revenue Code shall file with the Public Employees Retirement Board an annual report on such plan and shall submit copies of such report to the members of the Nebraska Retirement Systems Committee of the Legislature. The annual report shall be in a form prescribed by the Public Employees Retirement Board and shall contain the following information for each such retirement plan:

(i) The number of persons participating in the retirement plan;
 (ii) The contribution rates of participants in the plan;
 (iii) Plan assets and liabilities;
 (iv) The names and positions of persons administering the plan;
 (v) The names and positions of persons investing plan assets;
 (vi) The form and nature of investments;
 (vii) For each defined contribution plan, a full description of investment policies and options available to plan participants; and

(viii) For each defined benefit plan, the levels of benefits of participants in the plan, the number of members who are eligible for a benefit, and the total present value of such members' benefits, as well as the funding sources which will pay for such benefits.

If a plan contains no current active participants, the chairperson may file in place of such report a statement with the Public Employees Retirement Board indicating the number of retirees still drawing benefits, and the sources and amount of funding for such benefits.

(b) Beginning December 31, 1998, and every four years thereafter, if such retirement plan is a defined benefit plan, the county board of a county or council of the municipal county with a retirement plan established pursuant to this section shall cause to be prepared a quadrennial report and the chairperson shall file the same with the Public Employees Retirement Board and submit to the members of the Nebraska Retirement Systems Committee of the Legislature a copy of such report. The report shall consist of a full actuarial analysis of each such retirement plan established pursuant to this section. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are members in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization offering investment advice or which provides investment management services to the retirement plan.

Sec. 32. Section 23-2301, Revised Statutes Supplement, 2000, is amended to read:

23-2301. For purposes of the County Employees Retirement Act, unless the context otherwise requires:

(1)(a) Compensation means gross wages or salaries payable to the member for personal services performed during the plan year. Compensation does not include insurance premiums converted into cash payments, reimbursement for expenses incurred, fringe benefits, or bonuses for services not actually rendered, including, but not limited to, early retirement inducements, cash awards, and severance pay, except for retroactive salary payments paid pursuant to court order, arbitration, or litigation and grievance settlements. Compensation includes overtime pay, member retirement contributions, and amounts contributed by the member to plans under sections 125, 403(b), and 457 of the Internal Revenue Code or any other section of the code which defers or excludes such amounts from income.

(b) Compensation in excess of the limitations set forth in section 401(a)(17) of the Internal Revenue Code shall be disregarded. For an employee who was a member of the retirement system before the first plan year beginning after December 31, 1995, the limitation on compensation shall not be less than the amount which was allowed to be taken into account under the retirement system as in effect on July 1, 1993;

(2) Date of adoption of the retirement system by each county means the first day of the month next following the date of approval of the retirement system by the county board or January 1, 1987, whichever is earlier;

(3) Date of disability means the date on which a member is determined by the board to be disabled;

(4) Disability means an inability to engage in a substantially gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or be of a long and indefinite duration;

(5) Eligibility and vesting credit means credit for years, or a fraction of a year, of participation in a Nebraska governmental plan for purposes of determining membership in the retirement system and vesting the employer account;

(6) Employees means all persons or officers who are employed by a county of the State of Nebraska on a permanent basis, persons or officers employed by or serving in a municipal county formed by at least one county participating in the retirement system, persons employed as provided in section 2-1608, all elected officers of a county, and such other persons or officers as are classified from time to time as permanent employees by the county board of the county by whom they are employed, except that employees does not include judges, employees or officers of any county having a population in excess of one hundred fifty thousand inhabitants, or, except as provided in section 23-2306, persons making contributions to the School Retirement System of the State of Nebraska;

(7) Five-year break in service means a period of five consecutive one-year breaks in service;

(8) Full-time employee means an employee who is employed to work one-half or more of the regularly scheduled hours during each pay period;

(9) Future service means service following the date of adoption of the retirement system;

(10) Group annuity contract means the contract issued by one or more life insurance companies to the board in order to provide the future service benefits described in the act;

(11) Guaranteed investment contract means an investment contract or account offering a return of principal invested plus interest at a specified rate. For investments made after July 19, 1996, guaranteed investment contract does not include direct obligations of the United States or its instrumentalities, bonds, participation certificates or other obligations of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Government National Mortgage Association, or collateralized mortgage obligations and other derivative securities. This subdivision shall not be construed to require the liquidation of investment contracts or accounts entered into prior to July 19, 1996;

(12) One-year break in service means a plan year during which the member has not completed more than five hundred hours of service;

(13) Part-time employee means an employee who is employed to work less than one-half of the regularly scheduled hours during each pay period;

(14) Plan year means the twelve-month period beginning on January 1 and ending on December 31;

(15) Prior service means service prior to the date of adoption of the retirement system;

(16) Regular interest means the rate of interest earned each calendar year as determined by the retirement board in conformity with actual and expected earnings on the investments;

(17) Required contribution means the deduction to be made from the compensation of employees as provided in the act;

(18) Retirement means qualifying for and terminating employment after becoming qualified to receive the retirement allowance granted under the act;

(19) Retirement board or board means the Public Employees Retirement Board;

(20) Retirement system means the Retirement System for Nebraska Counties;

(21) Service means the actual total length of employment as an employee and is not deemed to be interrupted by (a) temporary or seasonal suspension of service that does not terminate the employee's employment, (b) leave of absence authorized by the employer for a period not exceeding twelve months, (c) leave of absence because of disability, or (d) military service, when properly authorized by the retirement board. Service does not include any period of disability for which disability retirement benefits are received under section 23-2315;

(22) Straight life annuity means an ordinary annuity, payable for the life of the primary annuitant only, and terminating at his or her death without refund or death benefit of any kind;

(23) Surviving spouse means (a) the spouse married to the member on the date of the member's death or (b) the spouse or former spouse of the member if survivorship rights are provided under a qualified domestic relations order filed with the board pursuant to the Spousal Pension Rights Act. The spouse or former spouse shall supersede the spouse married to the member on the date of the member's death as provided under a qualified domestic relations order. If the benefits payable to the spouse or former

spouse under a qualified domestic relations order are less than the value of benefits entitled to the surviving spouse, the spouse married to the member on the date of the member's death shall be the surviving spouse for the balance of the benefits; and

(24) Termination of employment occurs on the date on which a county which is a member of the retirement system determines that its employer-employee relationship with an employee is dissolved. The county shall notify the board within two weeks after the date such a termination is deemed to have occurred. Termination of employment does not occur if an employee whose employer-employee relationship with a county is dissolved enters into an employer-employee relationship with the same or another county which participates in the Retirement System for Nebraska Counties and there are less than one hundred twenty days between the date when the employee's employer-employee relationship ceased with the county and the date when the employer-employee relationship commenced with the same or another county which qualifies the employee for participation in the plan. It shall be the responsibility of the current employer to notify the board of such change in employment and provide the board with such information as the board deems necessary. If the board determines that termination of employment has not occurred and a termination benefit has been paid to a member of the retirement system pursuant to section 23-2319, the board shall require the member who has received such benefit to repay the benefit to the retirement system.

Sec. 33. Section 23-2306, Revised Statutes Supplement, 2000, is amended to read:

23-2306. (1) The membership of the retirement system shall be composed of (a) all full-time employees who have been employees for a period of twelve continuous months, except that full-time elected officials shall be members on taking office, (b) all full-time or part-time employees who have attained the age of twenty-five, have been employed for a total of twelve months within a five-year period, and exercise the option to join the retirement system, and (c) all part-time elected officials who exercise the option to join the retirement system. A part-time employee who exercises the option to join the retirement system shall remain in the system until termination or retirement.

(2) Within the first thirty days of employment, a full-time employee may apply to the board for eligibility and vesting credit for years of participation in another Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code. During the years of participation in the other Nebraska governmental plan, the employee must have been a full-time employee, as defined in the Nebraska governmental plan in which the credit was earned.

(3) Any employee who qualifies for membership in the retirement system pursuant to this section may not be disqualified for membership in the retirement system solely because such employee also maintains separate employment which qualifies the employee for membership in another public retirement system, nor may membership in this retirement system disqualify such an employee from membership in another public retirement system solely by reason of separate employment which qualifies such employee for membership in this retirement system.

(4) A full-time or part-time employee of a city, village, or township who becomes a county employee pursuant to a merger of services shall receive credit for his or her years of employment with the city, village, or township for purposes of the membership provisions of this section and shall receive eligibility and vesting credit for his or her years of participation in a Nebraska governmental plan, as defined by section 414(d) of the Internal Revenue Code, of the city, village, or township.

(5) A full-time or part-time employee of a city, village, fire protection district, or township who becomes a municipal county employee shall receive credit for his or her years of employment with the city, village, fire protection district, or township for purposes of the membership provisions of this section.

(6) Information necessary to determine membership in the retirement system shall be provided by the employer.

Sec. 34. Under such rules and regulations as the retirement board adopts and promulgates, a full-time or part-time employee of a city, village, fire protection district, or township who becomes a municipal county employee shall transfer all of his or her funds in the retirement system of the city, village, fire protection district, or township by paying to the Retirement System for Nebraska Counties from funds held by the retirement system of the city, village, fire protection district, or township an amount equal to one of the following: (1) If the retirement system of the city, village, fire protection district, or township maintains a defined benefit plan, an amount

not to exceed the initial benefit transfer value as provided in section 13-2401, leaving no funds attributable to the transferred employee within the retirement system of the city, village, fire protection district, or township; or (2) if the retirement system of the city, village, fire protection district, or township maintains a defined contribution plan, an amount not to exceed the employee and employer accounts of the transferring employee plus earnings during the period of employment with the city, village, fire protection district, or township. The employee shall receive eligibility and vesting credit for his or her years of service in a governmental plan, as defined in section 414(d) of the Internal Revenue Code, maintained by the city, village, fire protection district, or township. Payment shall be made within five years after employment begins with the receiving entity or prior to retirement, whichever comes first, and may be made through direct payment, installment payments, or an irrevocable payroll deduction authorization.

Sec. 35. Section 23-2323.03, Reissue Revised Statutes of Nebraska, is amended to read:

23-2323.03. (1) The retirement system may accept cash rollover contributions from a member who is making payment pursuant to section 23-2306.02, 23-2320, or 23-2323.01 or section 34 of this act if the contributions do not exceed the amount authorized to be paid by the member pursuant to section 23-2306.02, 23-2320, or 23-2323.01 or section 34 of this act, and the contributions represent (a) all or any portion of the balance of the member's interest in a qualified trust under section 401(a) of the Internal Revenue Code or (b) the interest of the member from an individual retirement account or an individual retirement annuity, the entire amount of which is attributable to a qualified total distribution, as defined in the Internal Revenue Code, from a qualified trust under section 401(a) of the code and qualified as a tax-free rollover amount. The member's interest under subdivision (a) or (b) of this subsection must be transferred to the retirement system within sixty days from the date of the distribution from the qualified trust, individual retirement account, or individual retirement annuity.

(2) Cash transferred to the retirement system as a rollover contribution shall be deposited as other payments made under section 23-2306.02, 23-2320, or 23-2323.01 or section 34 of this act.

(3) The retirement system may accept direct rollover distributions made from a qualified trust pursuant to section 401(a)(31) of the Internal Revenue Code. The direct rollover distribution shall be deposited as all other payments under this section.

(4) The board shall adopt and promulgate rules and regulations defining procedures for acceptance of rollovers which are consistent with sections 401(a)(31) and 402 of the Internal Revenue Code.

Sec. 36. The municipal county shall be responsible for making contributions and performing other duties and shall exercise the powers of a county under the County Employees Retirement Act with respect to the employees of the municipal county.

Sec. 37. Section 23-2331, Revised Statutes Supplement, 2000, is amended to read:

23-2331. Sections 23-2301 to 23-2332 and sections 34 and 36 of this act shall be known and may be cited as the County Employees Retirement Act.

Sec. 38. Section 32-567, Reissue Revised Statutes of Nebraska, is amended to read:

32-567. Vacancies in office shall be filled as follows:

(1) In state and judicial district offices and in the membership of any board or commission created by the state when no other method is provided, by the Governor;

(2) In county offices, by the county board;

(3) In the membership of the county board, by the county clerk, county attorney, and county treasurer;

(4) In township offices, by the township board or, if there are two or more vacancies on the township board, by the county board;

(5) In offices in public power and irrigation districts, according to section 70-615;

(6) In offices in natural resources districts, according to section 2-3215;

(7) In offices in community college areas, according to section 85-1514;

(8) In offices in educational service units, according to section 79-1217;

(9) In offices in hospital districts, according to section 23-3534;

(10) In offices in metropolitan utilities districts, according to section 14-2104;

(11) In membership on airport authority boards, according to section 3-502, 3-611, or 3-703, as applicable; ~~and~~

(12) In membership on the board of trustees of a road improvement district, according to section 39-1607; ~~and~~

(13) In membership on the council of a municipal county, by the council.

Unless otherwise provided by law, all vacancies shall be filled within forty-five days after the vacancy occurs unless good cause is shown that the requirement imposes an undue burden.

Sec. 39. Section 39-2501, Reissue Revised Statutes of Nebraska, is amended to read:

39-2501. Before making distribution of funds allocated to the counties or municipal counties for road purposes, incentive payments shall first be made as provided in sections 39-2502 to 39-2505.

Sec. 40. Section 39-2503, Reissue Revised Statutes of Nebraska, is amended to read:

39-2503. The incentive payment to the various counties and municipal counties shall be based on the rural population of each county or municipal county, as determined by the most recent federal census, according to the following table:

Population	Payment
Not more than 3,000	\$4,500.00
3,001 to 5,000	4,875.00
5,001 to 10,000	5,250.00
10,001 to 20,000	5,625.00
20,001 to 30,000	6,000.00
30,001 and more	6,375.00

Sec. 41. Section 39-2504, Reissue Revised Statutes of Nebraska, is amended to read:

39-2504. (1) A reduced incentive payment shall be made to any county or municipal county having in its employ a qualified county highway superintendent for only a portion of the calendar year preceding the year in which the payment is made. Such reduced payment shall be in the proportion of the amounts listed in section 39-2503 as the number of full months such a qualified person was employed is of twelve.

(2) Any county or municipal county that contracts with a consulting engineer or engineering firm to perform the duties outlined in section 39-2502 rather than employing a qualified county highway superintendent shall be entitled to an incentive payment equal to two-thirds the amount provided in section 39-2503.

(3) Any county or municipal county that contracts with another county or municipal county or with any city or village for the employment of a qualified highway superintendent as provided in section 39-2114, shall be entitled to the incentive payment provided in section 39-2503 or the reduced incentive payment provided in subsection (1) of this section.

Sec. 42. Section 39-2507, Reissue Revised Statutes of Nebraska, is amended to read:

39-2507. The following factors and weights shall be used in determining the amount to be allocated to each of the counties or municipal counties for road purposes ~~in the year 1972 and each year thereafter~~ each year:

(1) Rural population of each county or municipal county, as determined by the most recent federal census, twenty percent;

(2) Total population of each county or municipal county, as determined by the most recent federal census, ten percent;

(3) Lineal feet of bridges twenty feet or more in length and all overpasses in each county or municipal county, as determined by the most recent inventory available within the Department of Roads, ten percent, and for purposes of this subdivision a bridge or overpass located partly in one county or municipal county and partly in another shall be considered as being located one-half in each county or municipal county;

(4) Total motor vehicle registrations, other than prorated commercial vehicles, in the rural areas of each county or municipal county, as determined from the most recent information available from the Department of Motor Vehicles, twenty percent;

(5) Total motor vehicle registrations, other than prorated commercial vehicles, in each county or municipal county as determined from the most recent information available from the Department of Motor Vehicles, ten percent;

(6) Total miles of county or municipal county and township roads within each county or municipal county, as determined by the most recent inventory available within the Department of Roads, twenty percent; and

(7) Value of farm products sold from each county or municipal county, as determined from the most recent federal Census of Agriculture, ten percent.

Sec. 43. Section 39-2508, Reissue Revised Statutes of Nebraska, is amended to read:

39-2508. The Department of Roads shall compute the amount allocated to each county or municipal county under each of the factors listed in section 39-2507 and shall then compute the total allocation to each such county or municipal county and transmit such information to the local governing board and the State Treasurer, who shall disburse funds accordingly.

Sec. 44. Section 39-2509, Reissue Revised Statutes of Nebraska, is amended to read:

39-2509. (1) Each county or municipal county shall be entitled to one-half of the amount allocated to it each year under sections 39-2507 and 39-2508 with no requirement for providing funds locally, but shall be required to match the second one-half on the basis of one dollar for each two dollars it receives with any available funds.

(2) ~~Commencing in 1972, each~~ Each county or municipal county which, during the preceding fiscal year, failed to provide locally the minimum required by subsection (1) of this section shall forfeit one dollar for each dollar which it fails to so provide locally. ~~except that any county which certifies to the State Treasurer by resolution that it has reached its constitutional levy limitation as a result of the requirement by law of providing its share of the cost of caring for mental health patients and is therefor unable to meet its highway revenue matching requirements shall have its unmet highway allocation held in escrow until July 1, 1973. The State Treasurer shall invest such escrow funds in short-term obligations of the United States Government and the interest therefrom shall be added to the counties' share of the Highway Allocation Fund for the month in which the interest is received.~~ Any amounts ~~otherwise~~ forfeited under the provisions of this subsection first shall be made available to the incorporated municipalities, as determined by the county board or the council of the municipal county, within the county or municipal county which forfeits the funds, such funds to be matched by the incorporated municipalities in the same manner as would have been required of the county or municipal county had it not forfeited the funds, and if not so used, then shall be allocated among and distributed to the counties and municipal counties that have complied with the requirements of subsection (1) of this section. Such distribution shall be made as provided in sections 39-2507 and 39-2508, except that any county or municipal county having levied its constitutional maximum and not levied sufficient funds to fully match its share of the second half of the highway-user funds allocated to that county or municipal county may apply to the Board of Public Roads Classifications and Standards for exemption from that part of the local matching requirement that it cannot match. The board may grant such exemption if, in its judgment, the county or municipal county has not unnecessarily increased its expenditures for other than road purposes after receiving its allocation for roads in previous years.

(3) For the purposes of this section, providing locally shall include, but not be limited to, providing money for road purposes through the following, except that there shall not be duplication in the following in the determination of the total:

(a) Property taxes levied by action of county and township boards or the council of the municipal county for construction, improvement, maintenance, and repair of roads, bridges, culverts, and drainage structures, for curbs, for snow removal, for grading of dirt and gravel roads, for traffic signs and signals, and for construction of storm sewers directly related to roads and property taxes levied for the payment of the principal and interest on general obligation bonds for any of the foregoing;

(b) Contributions received for ~~county~~ road purposes;

(c) Local costs in the acquisition of road right-of-way, including incidental expenses directly related to such acquisition; and

(d) Inheritance taxes allocated for ~~county~~ road purposes.

Sec. 45. Section 39-2511, Reissue Revised Statutes of Nebraska, is amended to read:

39-2511. Before making distribution of funds allocated to the municipalities or municipal counties for street purposes, incentive payments shall first be made as provided in sections 39-2512 to 39-2515.

Sec. 46. Section 39-2512, Reissue Revised Statutes of Nebraska, is amended to read:

39-2512. An incentive payment shall be made to each municipality or municipal county having in its employ a qualified city street superintendent licensed under the provisions of sections 39-2301 to 39-2311, during the

calendar year preceding the year in which payment is made. For purposes of sections 39-2511 to 39-2520, qualified city street superintendent shall mean a person capable of and actually performing the following duties:

- (1) Developing and annually updating a long-range plan based on needs and coordinated with adjacent local governmental units;
- (2) Developing an annual program for design, construction, and maintenance;
- (3) Developing an annual budget based on programmed projects and activities;
- (4) Submitting such plans, programs, and budgets to the local governing body for approval;
- (5) Implementing the capital improvements and maintenance activities provided in the approved plans, programs, and budgets; and
- (6) Preparing and submitting annually to the Auditor of Public Accounts and to the Board of Public Roads Classifications and Standards a report showing the actual receipts, expenditures, and accomplishments compared with those budgeted and programmed in the subdivision's annual plans.

Sec. 47. Section 39-2513, Reissue Revised Statutes of Nebraska, is amended to read:

39-2513. The incentive payment to the various municipalities or municipal counties shall be based on the population of each municipality or urbanized area of each municipal county, as determined by the most recent federal census figures certified by the Tax Commissioner as provided in section 77-3,119, according to the following table:

Population	Payment
Not more than 500	\$ 300.00
501 to 1,000	500.00
1,001 to 2,500	1,500.00
2,501 to 5,000	2,000.00
5,001 to 10,000	3,000.00
10,001 to 20,000	3,500.00
20,001 to 40,000	3,750.00
40,001 to 200,000	4,000.00
200,001 and more	4,250.00

Sec. 48. Section 39-2514, Reissue Revised Statutes of Nebraska, is amended to read:

39-2514. (1) A reduced incentive payment shall be made to any municipality or municipal county having in its employ a qualified city street superintendent for only a portion of the calendar year preceding the year in which the payment is made. Such reduced payment shall be in the proportion of the amounts listed in section 39-2513 as the number of full months such a qualified person was employed is of twelve.

(2) Any municipality or municipal county that contracts with a consulting engineer or engineering firm to perform the duties outlined in section 39-2512 rather than employing a qualified city street superintendent shall be entitled to an incentive payment as provided in section 39-2513.

(3) Any municipality or municipal county that contracts with another municipality, ~~or county,~~ or municipal county for the employment of a qualified city street superintendent as provided in section 39-2114, shall be entitled to the incentive payment provided in section 39-2513 or the reduced incentive payment provided in subsection (1) of this section.

Sec. 49. Section 39-2517, Reissue Revised Statutes of Nebraska, is amended to read:

39-2517. The following factors and weights shall be used in determining the amount to be allocated to each of the municipalities or municipal counties for street purposes each year:

(1) Total population of each incorporated municipality or the urbanized area of a municipal county, as determined by the most recent federal census figures certified by the Tax Commissioner as provided in section 77-3,119, fifty percent;

(2) Total motor vehicle registrations, other than prorate commercial vehicles, in each incorporated municipality or the urbanized area of a municipal county, as determined from the most recent information available from the Department of Motor Vehicles, thirty percent; and

(3) Total number of miles of traffic lanes of streets in each incorporated municipality or the urbanized area of a municipal county, as determined by the most recent inventory available within the Department of Roads, twenty percent.

Sec. 50. Section 39-2518, Reissue Revised Statutes of Nebraska, is amended to read:

39-2518. The Department of Roads shall compute the amount allocated to each municipality or municipal county under the factors listed in section

39-2517 and shall then compute the total allocation to each such municipality or municipal county and transmit such information to the local governing body and the State Treasurer, who shall disburse funds accordingly.

Sec. 51. Section 39-2519, Reissue Revised Statutes of Nebraska, is amended to read:

39-2519. (1) Each city of the metropolitan or primary class or successor municipal county shall be entitled to the first one-third of its annual allocation with no requirement of matching, but shall be required to match the second one-third, on the basis of one dollar for each dollar it receives, with funds provided locally for street purposes, and shall be required to match the final one-third, on the basis of one dollar for each two dollars it receives, with funds so provided. Each city of the first or second class or village or successor municipal county shall be entitled to one-half of its annual allocation with no requirement of matching, but shall be required to match the second one-half on the basis of one dollar for each two dollars it receives, with any available funds. Any municipality or municipal county which during the preceding fiscal year failed to provide the matching funds required by this subsection shall, except as provided in subsection (2) or (3) of this section, forfeit so much of its allocation as it fails to match. Any amount so forfeited shall be reallocated and distributed to the municipalities or municipal counties which have met the full matching provisions of this subsection. Such reallocation shall be made in the manner provided in sections 39-2517 and 39-2518.

(2) Any municipality or municipal county may accumulate and invest any portion or all of the money it receives for a period not to exceed four years so as to provide funds for one or more specific street improvement projects. Any municipality or municipal county so accumulating funds shall certify to the State Treasurer that the required matching funds are being accumulated and invested each year of the accumulation.

(3) Any municipality may, for any year, certify to the State Treasurer that it relinquishes, to the county in which it is situated in whole or in part, all or a part of the state funds allocated to it for that year. The amount so relinquished shall be available for distribution to such county subject to the same matching as would have been required of the municipality had it not relinquished such funds and without regard to the provisions of sections 39-2501 to 39-2510. Any amount so distributed to the county shall be used exclusively for road purposes within the trade area of the relinquishing municipality as may be agreed upon by the county and municipal governing bodies.

(4) Any municipality may certify to the State Treasurer that it relinquishes, to the county in which it is situated in whole or in part, all or a part of the state funds allocated to it for not to exceed three years. The amount so relinquished shall be available for distribution to such county subject to the same matching as would have been required of the municipality had it not relinquished such funds and without regard to the provisions of sections 39-2501 to 39-2510. Any relinquishment under this subsection shall be made pursuant to an agreement between the relinquishing municipality and the county, to which other political subdivisions may also be parties, which provides for the accumulation and investment by the county of the amount relinquished for not to exceed three years so as to provide funds for one or more specific road improvement projects.

(5) For purposes of this section, provided locally shall include, but not be limited to, money provided for street purposes through the following, except that there shall not be duplication in the following in the determination of the total:

(a) Local motor vehicle or wheel fees or taxes;

(b) Property taxes levied by action of the local governing body for construction, improvement, maintenance, and repair of streets and bridges, curbs, snow removal, street cleaning, grading of dirt and gravel streets and roads, traffic signs and signals, construction of storm sewers directly related to streets, offstreet public parking owned by the municipality or municipal county, and the payment of the principal and interest on general obligation bonds for any of the foregoing;

(c) Special assessments levied for street paving or improvement districts and offstreet public parking owned by the municipality or municipal county;

(d) Local costs in the acquisition of street right-of-way including incidental expenses directly related to such acquisition; and

(e) Any other funds provided solely for street purposes.

Sec. 52. Section 57-1302, Revised Statutes Supplement, 2000, is amended to read:

57-1302. Sections 57-1303 to 57-1307 shall be applicable to an

investor-owned natural gas utility only when it is operating in a county in which there is located the natural gas service area, or portion of the natural gas service area, of a metropolitan utilities district and only with regard to matters arising within any such county. Within the limits of a municipal county, the provisions of sections 57-1301 to 57-1307 shall be applicable to the extent and in the manner provided by the Legislature as required by section 2 of this act.

Sec. 53. Section 66-4,148, Reissue Revised Statutes of Nebraska, is amended to read:

66-4,148. (1) The State Treasurer shall monthly distribute the receipts accruing to the Highway Allocation Fund pursuant to section 66-4,147. One-half of such receipts shall be distributed to the various counties and municipal counties for road purposes and one-half of such receipts shall be distributed to the various municipalities and municipal counties for street purposes.

(2) The distribution of funds to the respective cities, ~~and~~ counties, and municipal counties under subsection (1) of this section shall be based on the provisions of Chapter 39, article 25.

Sec. 54. Section 74-1305, Revised Statutes Supplement, 2000, is amended to read:

74-1305. (1) Such district shall have the power, right, and authority after notice and public hearing ~~(1)~~ (a) to purchase within or without such county railroad rights-of-way including the improvements, ~~(2)~~ (b) to purchase land not presently owned or used by any railroad company for additional right-of-way or additional switch or yard space where changes of routes or construction of interconnections or of new railroad yards is necessary or desirable, and ~~(3)~~ (c) to acquire through the exercise of the power of eminent domain, but only upon the vote of the directors of such district, which vote shall require a five-sixths majority in districts governed pursuant to subsection (1) of section 74-1304 and a two-thirds majority in districts governed pursuant to subsection (2) of section 74-1304, and the written approval by each railroad involved in the contemplated relocation project, such land as set forth in subdivision ~~(2)~~ (1)(b) of this section for the purposes set forth in such subdivision, which acquisition shall follow the procedures set forth in sections 76-704 to 76-724.

Such land and improvements as may be acquired for the purpose of the removal of railroad trackage may be disposed of by conveying the same for reasonable consideration to a governmental entity for public purposes or by sale of the same as set forth in this section. Such new railroad rights-of-way, switches, and yards as may be obtained and constructed may be leased for use to railroads or may be sold to such railroads or may be traded to such railroads for other property belonging to such railroads.

Such property, real or personal, shall be sold in such manner and under such terms and conditions as the board shall deem in the best interests of the district, ~~+~~ except that if the fair market value exceeds five thousand dollars, it may only be sold after due notice and hearing by such board at a regular meeting upon the vote of a majority of such board.

(2) The board of directors of such district shall also have the right and authority to enter into contracts or other arrangements with the United States Government or its departments, any persons, railroads, corporations, political subdivisions, public and municipal corporations, and the state government of this state, making full use of the Interlocal Cooperation Act and the Joint Public Agency Act, for ~~(1)~~ (a) cooperation or assistance in the design, construction, maintenance, sale, or lease of the works of the district, ~~(2)~~ (b) making surveys and investigations or reports in relation to the objectives of the district, ~~(3)~~ (c) cooperation or assistance in obtaining the construction, maintenance, or operation of a work or works of public improvement within the district for any of the purposes described in section 74-1302, ~~(4)~~ (d) receiving the title or possession, or both, of any property and funds connected directly or indirectly with the purposes described in section 74-1302, ~~(5)~~ (e) assuming, and becoming bound by, any obligations, promises, or covenants so connected, or ~~(6)~~ (f) holding and saving the United States or others free from damages resulting from any construction works that may be undertaken.

(3) Prior to implementing any plans affecting matters of planning by or the interests of any planning commission located within such district, the interests of any municipality, county or state educational institution or school district a portion of which lies within such district, any municipal county, any agricultural society, any airport authority, any natural resources district, or any other similar political entity, and any railroads, shippers, and affected property owners, the board shall consult with and submit such plans to such entities as may be concerned for study, review, comment, and

suggestion. Approval of any state or federal regulatory agency shall be secured, when necessary, prior to implementing any of the provisions contained in sections 74-1301 to 74-1308 and the district shall comply with the requirements of any such agency.

(4) In developing plans for specific projects, to determine the feasibility of implementing the purposes of sections 74-1301 to 74-1308, the district shall examine the costs and benefits to the community or communities, the railroads, and the highway users and shall calculate the costs and benefits by consideration being given but not limited to loss of revenue, increased operating costs, costs of installation, acquisition of real and personal property, relocation, signalization, communication, utilities, avoidance of hazards, creation of transportation efficiencies, resolving conflicts of land use, and any other ancillary or peripheral costs or benefits.

Sec. 55. Section 77-2704.31, Revised Statutes Supplement, 2000, is amended to read:

77-2704.31. If any person who causes property to be brought into this state has already paid a tax in another state with respect to the sale or use of such property in an amount less than the tax imposed by sections 13-319, 77-2703, and 77-27,142 and section 13 of this act, the provisions of subsection (2) of section 77-2703 shall apply, but at a rate measured by the difference only between the rate imposed by such sections and the rate by which the previous tax on the sale or use was computed. If such tax imposed and paid in such other state is equal to or more than the tax imposed by such sections, then no use tax shall be due in this state on such property if such other state, territory, or possession grants a reciprocal exclusion or exemption to similar transactions in this state.

Sec. 56. Section 77-2711, Reissue Revised Statutes of Nebraska, is amended to read:

77-2711. (1)(a) The Tax Commissioner shall enforce sections 77-2702.03 to 77-2713 and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of such sections.

(b) The Tax Commissioner may prescribe the extent to which any ruling or regulation shall be applied without retroactive effect.

(2) The Tax Commissioner may employ accountants, auditors, investigators, assistants, and clerks necessary for the efficient administration of the Nebraska Revenue Act of 1967 and may delegate authority to his or her representatives to conduct hearings, prescribe regulations, or perform any other duties imposed by such act.

(3)(a) Every seller, every retailer, and every person storing, using, or otherwise consuming in this state property purchased from a retailer shall keep such records, receipts, invoices, and other pertinent papers in such form as the Tax Commissioner may reasonably require.

(b) Every such seller, retailer, or person shall keep such records for not less than three years from the making of such records unless the Tax Commissioner in writing sooner authorized their destruction.

(4) The Tax Commissioner or any person authorized in writing by him or her may examine the books, papers, records, and equipment of any person selling property and any person liable for the use tax and may investigate the character of the business of the person in order to verify the accuracy of any return made or, if no return is made by the person, to ascertain and determine the amount required to be paid. In the examination of any person selling property or of any person liable for the use tax, an inquiry shall be made as to the accuracy of the reporting of city sales and use taxes for which the person is liable under the Local Option Revenue Act or sections 13-319 and 13-324 and section 13 of this act and the accuracy of the allocation made between the various counties, cities, ~~and~~ villages, and municipal counties of the tax due. The Tax Commissioner may make or cause to be made copies of resale or exemption certificates and may pay a reasonable amount to the person having custody of the records for providing such copies.

(5) The taxpayer shall have the right to keep or store his or her records at a point outside this state and shall make his or her records available to the Tax Commissioner at all times.

(6) In administration of the use tax, the Tax Commissioner may require the filing of reports by any person or class of persons having in his, her, or their possession or custody information relating to sales of property, the storage, use, or other consumption of which is subject to the tax. The report shall be filed when the Tax Commissioner requires and shall set forth the names and addresses of purchasers of the property, the sales price of the property, the date of sale, and such other information as the Tax Commissioner may require.

(7) It shall be a Class I misdemeanor for the Tax Commissioner or any

official or employee of the Tax Commissioner to make known in any manner whatever the business affairs, operations, or information obtained by an investigation of records and activities of any retailer or any other person visited or examined in the discharge of official duty or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof, or any book containing any abstract or particulars thereof to be seen or examined by any person not connected with the Tax Commissioner. Nothing in this section shall be construed to prohibit (a) the delivery to a taxpayer, his or her duly authorized representative, or his or her successors, receivers, trustees, executors, administrators, assignees, or guarantors, if directly interested, of a certified copy of any return or report in connection with his or her tax, (b) the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, (c) the inspection by the Attorney General, other legal representative of the state, or county attorney of the reports or returns of any taxpayer when either (i) information on the reports or returns is considered by the Attorney General to be relevant to any action or proceeding instituted by the taxpayer or against whom an action or proceeding is being considered or has been commenced by any state agency or the county or (ii) the taxpayer has instituted an action to review the tax based thereon or an action or proceeding against the taxpayer for collection of tax or failure to comply with the Nebraska Revenue Act of 1967 is being considered or has been commenced, (d) the furnishing of any information to the United States Government or to states allowing similar privileges to the Tax Commissioner, (e) the disclosure of information and records to a collection agency contracting with the Tax Commissioner pursuant to sections 77-377.01 to 77-377.04, or (f) the disclosure to another party to a transaction of information and records concerning the transaction between the taxpayer and the other party.

(8) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may permit the Postal Inspector of the United States Postal Service or his or her delegates to inspect the reports or returns of any person filed pursuant to the Nebraska Revenue Act of 1967 when information on the reports or returns is relevant to any action or proceeding instituted or being considered by the United States Postal Service against such person for the fraudulent use of the mails to carry and deliver false and fraudulent tax returns to the Tax Commissioner with the intent to defraud the State of Nebraska or to evade the payment of Nebraska state taxes.

(9) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may permit other tax officials of this state to inspect the tax returns, reports, and applications filed under sections 77-2702.03 to 77-2713, but such inspection shall be permitted only for purposes of enforcing a tax law and only to the extent and under the conditions prescribed by the rules and regulations of the Tax Commissioner.

(10) Notwithstanding the provisions of subsection (7) of this section, the Tax Commissioner may, upon request, provide the county board of any county which has exercised the authority granted by section 81-1254 with a list of the names and addresses of the hotels located within the county for which lodging sales tax returns have been filed or for which lodging sales taxes have been remitted for the county's County Visitors Promotion Fund under the Nebraska Visitors Development Act.

The information provided by the Tax Commissioner shall indicate only the names and addresses of the hotels located within the requesting county for which lodging sales tax returns have been filed for a specified period and the fact that lodging sales taxes remitted by or on behalf of the hotel have constituted a portion of the total sum remitted by the state to the county for a specified period under the provisions of the Nebraska Visitors Development Act. No additional information shall be revealed.

(11) In all proceedings under the Nebraska Revenue Act of 1967, the Tax Commissioner may act for and on behalf of the people of the State of Nebraska. The Tax Commissioner in his or her discretion may waive all or part of any penalties provided by the provisions of such act, but may not waive the minimum interest on delinquent taxes specified in section 45-104.02, as such rate may from time to time be adjusted, except interest on use taxes voluntarily reported by an individual.

Sec. 57. Section 77-3442, Revised Statutes Supplement, 2000, 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, as such title existed on the effective date of this act. 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, as such title existed on the effective date of this act.

(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)(a) Incorporated cities and villages which are not within the boundaries of a municipal county 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 or the Joint Public Agency 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.

(b) Incorporated cities and villages which are within the boundaries of a municipal county may levy a maximum levy of ninety cents per one hundred dollars of taxable valuation of property subject to the levy. The maximum levy shall include amounts paid to a municipal county for county services, amounts levied to pay for sums to support a library pursuant to section 51-201, a museum pursuant to section 51-501, a visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or a 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. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the 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 or the Joint Public Agency 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 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 or the Joint Public Agency 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) Municipal counties may levy or authorize a maximum levy of one dollar per one hundred dollars of taxable valuation of property subject to the levy. The municipal county may allocate levy authority to any political subdivision or entity subject to allocation under section 77-3443.

(10) 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, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

~~(10)~~ (11) 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)~~ (12) 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.

~~(12)~~ (13) For purposes of sections 77-3442 to 77-3444, political subdivision means a political subdivision of this state and a county agricultural society.

Sec. 58. Section 77-3443, Revised Statutes Supplement, 2000, is amended to read:

77-3443. (1) All political subdivisions, other than (a) school districts, community colleges, natural resources districts, educational service units, cities, villages, counties, municipal counties, and sanitary and improvement districts and (b) political subdivisions subject to municipal allocation under subsection (2) of this section, may levy taxes as authorized by law which are authorized by the county board of the county or the council of a municipal county in which the greatest portion of the valuation is located, which are counted in the county or municipal county levy limit provided in section 77-3442, and which do not collectively total more than fifteen cents per one hundred dollars of taxable valuation on any parcel or item of taxable property for all governments for which allocations are made by the municipality, ~~or county, or municipal county~~, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. The county board or council shall review and approve or disapprove the levy request of all political subdivisions subject to this subsection. The county board or council may approve all or a portion of the levy request and may approve a levy request that would allow the requesting political subdivision to levy a tax at a levy greater than that permitted by law. The county board of a county or the council of a municipal county which contains a transit authority created pursuant to section 14-1803 shall allocate no less than three cents per one hundred dollars of taxable property within the city or municipal county subject to the levy to the transit authority if requested by such authority. For any political subdivision subject to this subsection that receives taxes from more than one county or municipal county, the levy shall be allocated only by the county or municipal county in which the greatest portion of the valuation is located. The county board of equalization shall certify all levies by October 15 to insure that the taxes levied by political subdivisions subject to this subsection do not exceed the allowable limit for any parcel or item of taxable property. The levy allocated by the county or municipal county may be exceeded as provided in section 77-3444.

(2) All city airport authorities established under the Cities Airport Authorities Act, community redevelopment authorities established under the Community Development Law, transit authorities established under the Transit Authority Law, and offstreet parking districts established under the Offstreet

Parking District Act may be allocated property taxes as authorized by law which are authorized by the city, ~~or~~ village, or municipal county and are counted in the city or village levy limit or municipal county levy limit provided by section 77-3442, except that such limitation shall not apply to property tax levies for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport. The city council of a city which has created a transit authority pursuant to section 14-1803 or the council of a municipal county which contains a transit authority shall allocate no less than three cents per one hundred dollars of taxable property subject to the levy to the transit authority if requested by such authority. The city council, ~~or~~ village board, or council shall review and approve or disapprove the levy request of the political subdivisions subject to this subsection. The city council, ~~or~~ village board, or council may approve all or a portion of the levy request and may approve a levy request that would allow a levy greater than that permitted by law. The levy allocated by the municipality or municipal county may be exceeded as provided in section 77-3444.

(3) On or before August 1, all political subdivisions subject to county, ~~or~~ municipal, or municipal county levy authority under this section shall submit a preliminary request for levy allocation to the county board, city council, ~~or~~ village board, or council that is responsible for levying such taxes. The preliminary request of the political subdivision shall be in the form of a resolution adopted by a majority vote of members present of the political subdivision's governing body. The failure of a political subdivision to make a preliminary request shall preclude such political subdivision from using procedures set forth in section 77-3444 to exceed the final levy allocation as determined in subsection (4) of this section.

(4) Each county board, city council, ~~or~~ village board, or council shall (a) adopt a resolution by a majority vote of members present which determines a final allocation of levy authority to its political subdivisions and (b) forward a copy of such resolution to the chairperson of the governing body of each of its political subdivisions. No final levy allocation shall be changed after September 1 except by agreement between both the county board, city council, ~~or~~ village board, or council which determined the amount of the final levy allocation and the governing body of the political subdivision whose final levy allocation is at issue.

Sec. 59. Section 77-4105, Revised Statutes Supplement, 2000, is amended to read:

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

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

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

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

(b) Mainframe business computers used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user plus peripheral components which require environmental controls of temperature and power connected to such computers. Computer peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, and communication controllers; and

(c) Personal property which is business equipment located in a single project if (i) the business equipment is involved directly in the manufacture

or processing of agricultural products and (ii) the investment in the single project exceeds ten million dollars.

Such property shall be eligible for exemption from the tax on personal property from the first January 1 following the date of acquisition for property in subdivision (2)(a) of this section, or from the first January 1 following the end of the year during which the required levels were exceeded for property in subdivisions (2)(b) and (2)(c) of this section, through the sixteenth December 31 after the filing of the application. In order to receive the property tax exemptions allowed by subdivisions (2)(a), (2)(b), and (2)(c) of this section, the taxpayer shall annually file a claim for exemption with the Property Tax Administrator on or before May 1. The form and supporting schedules shall be prescribed by the Property Tax Administrator and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each project and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Property Tax Administrator shall determine the eligibility of each item listed for exemption and, on or before August 10, certify such to the taxpayer and to the affected county assessor. Notwithstanding any other provision of law, the Property Tax Administrator shall be allowed access to the applications and such other records of the Department of Revenue as necessary in order to determine the eligibility for exemption.

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

(a) A refund of all sales and use taxes paid under the Nebraska Revenue Act of 1967, the Local Option Revenue Act, and sections 13-319 and 13-324 and section 13 of this act from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

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

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

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

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

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

(4) Any taxpayer who qualifies for the incentives contained in subsections (1) and (3) of this section and who has added at least thirty new employees at the project shall also be entitled to:

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

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

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

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

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

Sec. 60. Section 77-4106, Reissue Revised Statutes of Nebraska, is amended to read:

77-4106. (1)(a) The credits prescribed in section 77-4105 shall be established by filing the forms required by the Tax Commissioner with the income tax return for the year. The credits may be used after any other nonrefundable credits to reduce the taxpayer's income tax liability imposed by sections 77-2714 to 77-27,135. The credits may be used to obtain a refund of sales and use taxes under the Nebraska Revenue Act of 1967, the Local Option Revenue Act, and sections 13-319 and 13-324 and section 13 of this act which are not otherwise refundable that are paid on purchases, including rentals, for use at the project.

(b) The credits may be used as allowed in subdivision (a) of this subsection and shall be applied in the order in which they were first allowed. Any decision on how part of the credit is applied shall not limit how the remaining credit could be applied under this section.

(c) The credit may be carried over until fully utilized, except that such credit may not be carried over more than eight years after the end of the entitlement period.

(2)(a) No refund claims shall be filed until after the required levels of employment and investment have been met.

(b) Refund claims shall be filed no more than once each quarter for refunds under the Employment and Investment Growth Act, except that any claim for a refund in excess of twenty-five thousand dollars may be filed at any time.

(c) Any refund claim for sales and use tax on materials incorporated into real estate as a part of the project shall be filed by and the refund paid to the owner of the improvement to real estate. A refund claim for such materials purchased by a purchasing agent shall include a copy of the purchasing agent appointment, the contract price, and a certification by the contractor or repairperson of the percentage of the materials incorporated into the project on which sales and use taxes were paid to Nebraska after appointment as purchasing agent.

(d) All refund claims shall be filed, processed, and allowed as any other claim under section 77-2708, except that the amounts allowed to be refunded under the Employment and Investment Growth Act shall be deemed to be overpayments and shall be refunded notwithstanding any limitation in subdivision (2)(a) of section 77-2708. The refund may be allowed if the claim is filed within three calendar years from the end of the year the required levels of employment and investment are met or within the period set forth in section 77-2708.

(e) Interest shall not be allowed on any sales and use taxes refunded under the Employment and Investment Growth Act.

(3) The appointment of purchasing agents shall be recognized for the purpose of changing the status of a contractor or repairperson as the ultimate consumer of tangible personal property purchased after the date of the appointment which is physically incorporated into the project and becomes the property of the owner of the improvement to real estate. The purchasing agent shall be jointly liable for the payment of the sales and use tax on the purchases with the owner of the improvement to real estate.

Sec. 61. Original sections 9-625, 10-131, 10-133, 10-142, 13-804, 13-2202, 14-2116, 23-2323.03, 32-567, 39-2501, 39-2503, 39-2504, 39-2507, 39-2508, 39-2509, 39-2511, 39-2512, 39-2513, 39-2514, 39-2517, 39-2518, 39-2519, 66-4,148, 77-2711, and 77-4106, Reissue Revised Statutes of Nebraska, and sections 10-127, 13-503, 13-2401, 13-2504, 23-1118, 23-2301, 23-2306, 23-2331, 57-1302, 74-1305, 77-2704.31, 77-3442, 77-3443, and 77-4105, Revised Statutes Supplement, 2000, are repealed.