

E AND R AMENDMENTS TO LB 965

Introduced by Enrollment and Review Committee: McGill, 26,  
Chairperson

1           1. Strike the original sections and all amendments  
2 thereto and insert the following new sections:

3           Section 1. Section 76-214, Revised Statutes Supplement,  
4 2007, is amended to read:

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

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

25 (2) Any person shall have access to the statements at  
26 the office of the Tax Commissioner or county assessor which have  
27 been filed on or after January 1, 1995, and if the statements are

1 available and have not been disposed of pursuant to the records  
2 retention and disposition schedule as approved by the State Records  
3 Administrator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 77-1202.01 In preparing the tax list, each county  
25 assessor shall enter in a separate column, opposite the name of  
26 each person, the person's post office address and the number of the  
27 school and road districts in which the taxable tangible personal

1 property of such person is assessable.

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

4           77-1210 ~~Personal~~ Taxable tangible personal property in  
5 transit shall be listed and assessed in the tax district where the  
6 owner resides, but if such property is intended for a business, it  
7 shall be listed and assessed in the tax district where the property  
8 of such business is required to be listed.

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

11           77-1214 It shall be the duty of any county assessor,  
12 sheriff, constable, city council member, and village trustee to at  
13 once inform the county treasurer of the making or attempted making  
14 of any sale, levy of attachment, or removal of taxable tangible  
15 personal property known to him or her. It shall be the duty of  
16 the county treasurer to forthwith proceed with the collection of  
17 the tax when such acts become known to him or her in any manner.  
18 Any personal property tax shall be due and collectible, including  
19 all taxable tangible personal property then assessed upon which the  
20 tax shall be computed on the basis of the last preceding levy, and  
21 a distress warrant shall be issued when (1) any person attempts  
22 to sell all or a substantial part of his or her taxable tangible  
23 personal property, (2) a levy of attachment is made upon taxable  
24 tangible personal property, or (3) a person attempts to remove or  
25 removes taxable tangible personal property from the county.

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

1           77-1219 It shall be the duty of the county assessor,  
2 when required by any person, to give a certificate of assessment  
3 of taxable tangible personal property showing the amount, kind,  
4 location, and net book value of the property assessed, and such  
5 certificate shall be evidence of the legal assessment of such  
6 property for the year.

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

9           77-1230 (1) Whenever a person files an amended federal  
10 income tax return or ~~his or her~~ whenever a person's return is  
11 changed or corrected by the Internal Revenue Service or other  
12 competent authority and the amendment, change, or correction  
13 affects the Nebraska adjusted basis of the person's taxable  
14 tangible personal property, such person shall file an amended  
15 list of taxable tangible personal property subject to taxation with  
16 the county assessor. The person shall file the amended list within  
17 ninety days after the filing of the amended federal return or  
18 within ninety days after the date the change or correction becomes  
19 final.

20           (2) Within the same tax year or the three previous tax  
21 years, a person may file an amended list of taxable tangible  
22 personal property subject to taxation upon discovery of errors or  
23 omissions on his or her filed list.

24           (3) If an amended list of taxable tangible personal  
25 property subject to taxation is filed, the county assessor shall  
26 accept or reject the proposed amendment within fifteen days after  
27 filing. The county assessor shall notify the person, on a form

1 prescribed by the Property Tax Administrator, of the action taken,  
2 the penalty, if any, and the rate of interest. The notice shall  
3 also state the person's appeal rights and appeal procedures, which  
4 shall be the same as provided in section 77-1233.06. Such notice  
5 shall be given by first-class mail addressed to such person's  
6 last-known address.

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

11 (5) If the amendment, change, or correction results in  
12 taxable tangible personal property becoming exempt or reduces the  
13 net book value of the property for an income tax year, a refund  
14 shall be paid pursuant to section 77-1734.01. the person may  
15 file a written claim for a refund of property tax paid relating  
16 to the federal income tax changes with the county treasurer. If  
17 the amended list and the claim for refund are filed within the  
18 ninety-day period, the claim shall be considered as timely filed  
19 notwithstanding any other provision of law regarding the period  
20 during which refunds could otherwise be claimed. The claim shall be  
21 processed according to section 77-1734.01.

22 ~~(3)~~ (6) If the amendment, change, or correction results  
23 in an increase in the net book value of the taxable tangible  
24 personal property or makes other tangible personal property  
25 taxable, the county assessor shall compute the additional tax due,  
26 along with interest, based on the amended listing. Interest shall  
27 be computed from the dates the tax would have been delinquent if

1 the property had been listed on or before May 1 of the appropriate  
2 year. If the amended listing is filed within the ninety-day period,  
3 no additional penalties shall be added. If the listing is not filed  
4 within the ninety-day period, the property shall be subject to a  
5 penalty pursuant to subsection (4) of section 77-1233.04.

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

8           77-1233.02 The county assessor with the aid of his or her  
9 deputy and assistants shall carefully examine, check, and verify  
10 all taxable tangible personal property tax returns. The assessor  
11 may make such investigation, examination, and inspection of the  
12 property set out in a return and examine under oath the person  
13 making the return as to his or her books, records, and papers in  
14 order to enable the assessor to determine that all taxable tangible  
15 personal property of the taxpayer is listed for taxation at its net  
16 book value.

17           Sec. 10. Section 77-1233.03, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           77-1233.03 The county assessor shall have general  
20 supervision over and direction of the assessment of all personal  
21 property in his or her county. He or she shall advise and instruct  
22 all deputies and assistants as to their duties and shall require  
23 of them that the assessment of property be uniform throughout the  
24 county and that property be assessed as directed by law.

25           The county assessor may, in extending a value on any item  
26 of taxable tangible personal property, reject all values that fall  
27 below two dollars and fifty cents and extend all values of two



1 dollars and fifty cents or more to the next higher five dollars or  
2 multiples thereof, making all valuations end in zero or five.

3 Sec. 11. Section 77-1233.04, Revised Statutes Supplement,  
4 2007, is amended to read:

5 77-1233.04 (1) The county assessor shall list and value  
6 at net book value any item of taxable tangible personal property  
7 omitted from a personal property return of any taxpayer. The county  
8 assessor shall change the reported valuation of any item of taxable  
9 tangible personal property listed on the return to conform the  
10 valuation to net book value. If a taxpayer fails or refuses to  
11 file a personal property return, the assessor shall, on behalf  
12 of the taxpayer, file a personal property return which shall list  
13 and value all of the taxpayer's taxable tangible personal property  
14 at net book value. The county assessor shall list or change the  
15 valuation of any item of taxable tangible personal property for the  
16 current taxing period and the three previous taxing periods or any  
17 taxing period included therein.

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

22 (3) Any valuation added to a personal property return or  
23 added through the filing of a personal property return, after May 1  
24 and on or before July 31 of the year the property is required to be  
25 reported, shall be subject to a penalty of ten percent of the tax  
26 due on the value added.

27 (4) Any valuation added to a personal property return or

1 added through the filing of a personal property return, on or after  
2 August 1 of the year the property is required to be reported, shall  
3 be subject to a penalty of twenty-five percent of the tax due on  
4 the value added.

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

9 (6) Whenever valuation changes are made to a personal  
10 property return or a personal property return is filed pursuant  
11 to this section, the county assessor shall correct the assessment  
12 roll and tax list, if necessary, to reflect such changes. Such  
13 corrections shall be made for the current taxing period and  
14 the three previous taxing periods or any taxing period included  
15 therein. If the change results in a decreased taxable valuation on  
16 the personal property return and the personal property tax has been  
17 paid prior to a correction pursuant to this section, the taxpayer  
18 may request a refund ~~or credit~~ of the tax in the same manner  
19 prescribed in section 77-1734.01, except that such request shall be  
20 made within three years after the date the tax was due.

21 Sec. 12. Section 77-1233.06, Revised Statutes Supplement,  
22 2007, is amended to read:

23 77-1233.06 For purposes of section 77-1233.04:

24 (1) The county assessor shall notify the taxpayer, on a  
25 form prescribed by the Tax Commissioner, of the action taken, the  
26 penalty, and the rate of interest. The notice shall also state  
27 the taxpayer's appeal rights and the appeal procedures. Such notice

1 shall be given by first-class mail addressed to such taxpayer's  
2 last-known address. The entire penalty and interest shall be waived  
3 if the omission or failure to report any item of taxable tangible  
4 personal property was for the reason that the property was timely  
5 reported in the wrong tax district;

6 (2) The taxpayer may appeal the action of the county  
7 assessor, either as to the valuation or the penalties imposed,  
8 to the county board of equalization within thirty days after the  
9 date of notice. The taxpayer shall preserve his or her appeal by  
10 filing a written appeal with the county clerk in the same manner  
11 as prescribed for protests in section 77-1502. The action of the  
12 county assessor shall become final unless a written appeal is filed  
13 within the time prescribed;

14 (3) The action of the county board of equalization, in  
15 an appeal of the penalties imposed, shall be limited to correcting  
16 penalties which were wrongly imposed or incorrectly calculated. The  
17 county board of equalization shall have no authority to waive or  
18 reduce any penalty which was correctly imposed and calculated. The  
19 entire penalty and interest on the penalty shall be waived if the  
20 omission or failure to report any item of taxable tangible personal  
21 property was for the reason that the property was timely reported  
22 in the wrong tax district;

23 (4) Upon ten days' notice to the taxpayer, the county  
24 board of equalization shall set a date for hearing the appeal  
25 of the taxpayer. The county board of equalization shall make its  
26 determination on the appeal within thirty days after the date  
27 of hearing. The county clerk shall, within seven days after the

1 determination of the county board, send notice to the taxpayer and  
2 the county assessor, on forms prescribed by the Tax Commissioner,  
3 of the action of the county board. Appeal may be taken within  
4 thirty days after the decision of the county board of equalization  
5 to the Tax Equalization and Review Commission; and

6 (5) Taxes and penalties assessed for the current year,  
7 if not delinquent, shall be certified to the county treasurer  
8 and collected as if the property had been properly reported for  
9 taxation, except that separate tax statements may be mailed.  
10 Taxes and penalties assessed for the current year, if delinquent,  
11 and taxes and penalties assessed for prior years shall be  
12 certified to the county treasurer, and the taxes, penalties,  
13 and interest thereon shall be due and collectible immediately upon  
14 certification. Collection procedures shall be started immediately  
15 regardless of the provisions of any other statute to the contrary.

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

18 77-1234 It shall be the duty of the county boards and  
19 county assessors to notify the county attorney of the proper county  
20 of all willful violations of the provisions with respect to listing  
21 of taxable tangible personal property for taxation known to them or  
22 any of them.

23 Sec. 14. Section 77-1345.01, Revised Statutes Cumulative  
24 Supplement, 2006, is amended to read:

25 77-1345.01 (1) On or before July 15 in the year of  
26 application, the county assessor shall approve or deny the  
27 application for special valuation filed pursuant to section

1 77-1345. On or before July 22, the county assessor shall issue  
2 notice of approval or denial.

3 (2) If the application is approved by the county  
4 assessor, the land shall be valued as provided in section 77-1344  
5 and, on or before July 22, the county board of equalization shall  
6 send a property valuation notice for special value and recapture  
7 value to the owner and, if not the same, the applicant. Within  
8 thirty days after the mailing of the notice, a written protest of  
9 the special value or recapture value may be filed.

10 (3) (a) If the application is denied by the assessor, a  
11 written protest of the denial of the application may be filed  
12 within thirty days after the mailing of the denial.

13 (b) If the denial of an application for special valuation  
14 is reversed on appeal and the application is approved, the land  
15 shall be valued as provided in section 77-1344 and the county  
16 board of equalization shall send the property valuation notice for  
17 special value and recapture value to the owner and, if not the  
18 same, the applicant or his or her successor in interest, within  
19 fourteen days after the date of the final order. Within thirty days  
20 after the mailing of the notice, a written protest of the special  
21 value or recapture value may be filed.

22 (4) If the county board of equalization takes action  
23 pursuant to section 77-1504 or 77-1507 and the applicant filed  
24 an application for special valuation pursuant to subsection (3)  
25 of section 77-1345, the county assessor shall approve or deny the  
26 application within fifteen days after the filing of the application  
27 and issue notice of the approval or denial as prescribed in

1 subsection (1) of this section. If the application is denied by  
2 the county assessor, a written protest of the denial may be filed  
3 within thirty days of the mailing of the denial.

4 (5) The assessor shall mail notice of any action taken  
5 by him or her on an application to the owner and the applicant if  
6 different than the owner.

7 (6) All provisions of section 77-1502 except dates for  
8 filing of a protest, the period for hearing protests, and the date  
9 for mailing notice of the county board of equalization's decision  
10 are applicable to any protest filed pursuant to this section.

11 (7) The county board of equalization shall decide any  
12 protest filed pursuant to this section within thirty days after the  
13 filing of the protest.

14 (8) The clerk shall mail a copy of any decision made by  
15 the county board of equalization on a protest filed pursuant to  
16 this section to the owner and the applicant if different than the  
17 owner within seven days after the board's decision.

18 (9) Any decision of the county board of equalization  
19 may be appealed to the Tax Equalization and Review Commission, in  
20 accordance with section 77-5013, within thirty days after the date  
21 of the decision.

22 (10) Any If a failure to give notice as prescribed  
23 by this section prevented timely filing of a protest or appeal  
24 provided for in this section, any applicant may petition the  
25 Tax Equalization and Review Commission in accordance with section  
26 77-5013, on or before December 31 of each year, to determine  
27 whether the land will receive special valuation for that year.

1 to determine special value for that year or years, or for 2009  
2 and prior years to determine recapture value for that year. if  
3 a failure to give notice as prescribed by this section prevented  
4 timely filing of a protest or appeal provided for in this section.

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

7           77-1502 (1) The county board of equalization shall meet  
8 for the purpose of reviewing and deciding written protests filed  
9 pursuant to this section beginning on or after June 1 and ending  
10 on or before July 25 of each year. Protests regarding real property  
11 shall be signed and filed after the county assessor's completion  
12 of the real property assessment roll required by section 77-1315  
13 and on or before June 30. For protests of real property, a protest  
14 shall be filed for each parcel. Protests regarding taxable tangible  
15 personal property shall be signed and filed on or before the last  
16 date for filing the return required by section 77-1229. returns  
17 filed pursuant to section 77-1229 from January 1 through May 1  
18 shall be signed and filed on or before June 30. The county board  
19 in a county with a population of more than one hundred thousand  
20 inhabitants based upon the most recent federal decennial census may  
21 adopt a resolution to extend the deadline for hearing protests from  
22 July 25 to August 10. The resolution must be adopted before July  
23 25 and it will affect the time for hearing protests for that year  
24 only. By adopting such resolution, such county waives any right to  
25 petition the Tax Equalization and Review Commission for adjustment  
26 of a class or subclass of real property under section 77-1504.01  
27 for that year.

1           (2) Each protest shall be signed and filed in triplicate  
2 with the county clerk of the county where the property is assessed.  
3 The protest shall contain or have attached a statement of the  
4 reason or reasons why the requested change should be made and a  
5 description of the property to which the protest applies. If the  
6 property is real property, a description of each parcel shall be  
7 provided. If the property is tangible personal property, a physical  
8 description of the property under protest shall be provided. If  
9 the protest does not contain or have attached the statement of  
10 the reason or reasons for the protest or the description of the  
11 property, the protest shall be dismissed by the county board of  
12 equalization.

13           (3) No hearing of the county board of equalization on  
14 a protest filed under this section shall be held before a single  
15 commissioner or supervisor.

16           (4) The county clerk or county assessor shall prepare a  
17 separate report on each protest. The report shall include (a) a  
18 description of the property to which the protest applies, (b) any  
19 recommendation of the county assessor for action on the protest,  
20 (c) if a referee is used, the recommendation of the referee, (d)  
21 the date the county board of equalization heard the protest, (e)  
22 the decision made by the county board of equalization, (f) the date  
23 of the decision, and (g) the date notice of the decision was mailed  
24 to the protester. The report shall contain, or have attached to  
25 it, a statement, signed by the chairperson of the county board of  
26 equalization, describing the basis upon which the board's decision  
27 was made. The report shall have attached to it a copy of that



1 portion of the property record file which substantiates calculation  
2 of the protested value unless the county assessor certifies to the  
3 county board of equalization that a copy is maintained in either  
4 electronic or paper form in his or her office. One copy of the  
5 report, if prepared by the county clerk, shall be given to the  
6 county assessor on or before August 2. The county assessor shall  
7 have no authority to make a change in the assessment rolls until  
8 there is in his or her possession a report which has been completed  
9 in the manner specified in this section. If the county assessor  
10 deems a report submitted by the county clerk incomplete, the county  
11 assessor shall return the same to the county clerk for proper  
12 preparation.

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

22 Sec. 16. Section 77-1504.01, Revised Statutes Cumulative  
23 Supplement, 2006, is amended to read:

24 77-1504.01 (1) Unless the county has adopted a resolution  
25 to extend the deadline for hearing protests under section 77-1502,  
26 after completion of its actions and based upon the hearings  
27 conducted pursuant to sections 77-1502 and 77-1504, a county

1 board of equalization may petition the Tax Equalization and Review  
2 Commission to consider an adjustment to a class or subclass of  
3 real property within the county. Petitions must be filed with the  
4 commission on or before July 26.

5 (2) The commission shall hear and take action on a  
6 petition filed by a county board of equalization on or before  
7 August 10. Hearings held pursuant to this section may be held by  
8 means of videoconference. The burden of proof is on the petitioning  
9 county to show that failure to make an adjustment would result  
10 in values that are not equitable and in accordance with the law.  
11 At the hearing the commission may receive testimony from any  
12 interested person.

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

27 (4) The county assessor shall make the specified changes

1 to each item of property in the county as directed by the  
2 order of the commission. In implementing such order, the county  
3 assessor shall adjust the values of the class or subclass that  
4 is the subject of the order. For properties that have already  
5 received an adjustment from the county board of equalization,  
6 an additional adjustment may be made so that total adjustments  
7 made are equal to the commission's ordered adjustment and no  
8 additional adjustment shall be made applying the commission's  
9 order, but such an exclusion from the commission's order shall  
10 not preclude adjustments to those properties for corrections or  
11 omissions. The county assessor of the county adjusted by an order  
12 of the commission shall recertify the abstract of assessment to the  
13 Property Tax Administrator on or before August 20.

14 Sec. 17. Section 77-1734.01, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16 77-1734.01 (1) In the case of an amended federal income  
17 tax return or whenever a person's return is changed or corrected  
18 by the Internal Revenue Service or other competent authority that  
19 decreases the Nebraska adjusted basis of the person's taxable  
20 tangible personal property, the county treasurer shall refund that  
21 portion of the tax paid that is in excess of the amount due after  
22 the amendment or correction.

23 (2) In case of payment made of any property taxes or any  
24 payments in lieu of taxes with respect to property as a result of  
25 a clerical error or honest mistake or misunderstanding, on the part  
26 of a county or other political subdivision of the state or any  
27 taxpayer, the county treasurer to whom the tax was paid may shall

1 refund ~~or credit~~ that portion of the tax paid as a result of the  
2 clerical error or honest mistake or misunderstanding. A claim for  
3 a refund pursuant to this section shall be made in writing to the  
4 county treasurer to whom the tax was paid within three years after  
5 the date the tax was due or within ninety days after filing the  
6 amended return or the correction becomes final.

7 (3) Before the refund or credit may be is made,  
8 the county treasurer shall receive verification from the county  
9 assessor or other taxing official that such error or mistake was  
10 made or the amended return was filed or the correction made, and  
11 the claim for refund ~~or credit~~ shall be submitted to the county  
12 board. The county board shall pass upon the claim as any other  
13 claim made against the county. The refund shall be made in the  
14 manner prescribed in section 77-1736.06. The claim for a refund  
15 or credit pursuant to this section shall be made in writing to  
16 the county treasurer to whom the tax was paid within two years  
17 from the date the tax was due. The ordering of a refund or  
18 credit by the county board pursuant to this section shall not  
19 have a dispositional effect on any similar claim for refund or  
20 credit made by another taxpayer. Upon verification, the county  
21 board shall approve the claim. The refund shall be made in the  
22 manner prescribed in section 77-1736.06. Such refund shall not  
23 have a dispositional effect on any similar refund for another  
24 taxpayer. This section may not be used to challenge the valuation  
25 of property, the equalization of property, or the constitutionality  
26 of a tax.

27 Sec. 18. Section 77-1736.06, Revised Statutes Supplement,

1 2007, is amended to read:

2 77-1736.06 The following procedure shall apply when  
3 making a property tax refund:

4 (1) Within thirty days of the entry of a final  
5 nonappealable order, an unprotested determination of a county  
6 assessor, an unappealed decision of a county board of equalization,  
7 or other final action requiring a refund of real or personal  
8 property taxes paid ~~or other action approving a refund~~ or,  
9 for property valued by the state, within thirty days of a  
10 recertification of value by the Property Tax Administrator pursuant  
11 to section 77-1775 or 77-1775.01, the county assessor shall  
12 determine the amount of refund due the person entitled to the  
13 refund, certify that amount to the county treasurer, and send a  
14 copy of such certification to the person entitled to the refund.  
15 Within thirty days from the date the county assessor certifies  
16 the amount of the refund, the county treasurer shall notify each  
17 political subdivision of its respective share of the refund, except  
18 that for any political subdivision whose share of the refund is two  
19 hundred dollars or less, the county board may waive this notice  
20 requirement. Notification shall be by first-class mail, postage  
21 prepaid, to the last-known address of record of the political  
22 subdivision. The county treasurer shall pay the refund from funds  
23 in his or her possession belonging to any political subdivision  
24 which received any part of the tax or penalty being refunded. If  
25 sufficient funds are not available or the political subdivision,  
26 within thirty days of the mailing of the notice by the county  
27 treasurer if applicable, certifies to the county treasurer that a

1 hardship would result and create a serious interference with its  
2 governmental functions if the refund of the tax or penalty is paid,  
3 the county treasurer shall register the refund or portion thereof  
4 which remains unpaid as a claim against such political subdivision  
5 and shall issue the person entitled to the refund a receipt for  
6 the registration of the claim. The certification by a political  
7 subdivision declaring a hardship shall be binding upon the county  
8 treasurer;

9           (2) The refund of a tax or penalty or the receipt for  
10 the registration of a claim made or issued pursuant to this section  
11 shall be satisfied in full as soon as practicable and in no event  
12 later than five years from the date the final order or other action  
13 approving a refund is entered. The governing body of the political  
14 subdivision shall make provisions in its budget for the amount of  
15 any refund or claim to be satisfied pursuant to this section. If a  
16 receipt for the registration of a claim is given:

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

22           (b) To the extent the amount of such receipt exceeds  
23 the amount of such tax liability, the unsatisfied balance of the  
24 receipt shall be paid and satisfied within the five-year period  
25 prescribed in this subsection from a combination of a credit  
26 against taxes anticipated to be due to the political subdivision  
27 during such period and cash payment from any funds expected to

1 accrue to the political subdivision pursuant to a written plan to  
2 be filed by the political subdivision with the county treasurer  
3 no later than thirty days after the claim against the political  
4 subdivision is first reduced by operation of a credit against taxes  
5 due to such political subdivision.

6           If a political subdivision fails to fully satisfy the  
7 refund or claim prior to the sixth next succeeding levy following  
8 the entry of a final nonappealable order or other action approving  
9 a refund, interest shall accrue on the unpaid balance commencing on  
10 the sixth next succeeding levy following such entry or action at  
11 the rate set forth in section 45-103;

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

19           (4) When the refund involves property valued by the  
20 state, the Tax Commissioner shall be authorized to negotiate a  
21 settlement of the amount of the refund or claim due pursuant to  
22 this section on behalf of the political subdivision from which  
23 such refund or claim is due. Any political subdivision which does  
24 not agree with the settlement terms as negotiated may reject such  
25 terms, and the refund or claim due from the political subdivision  
26 then shall be satisfied as set forth in this section as if no such  
27 negotiation had occurred;

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

8           (6) If all or any portion of the refund is reduced by  
9 way of settlement or forgiveness by the person entitled to the  
10 refund, the proportionate amount of the refund that was paid by  
11 an appropriation of state funds shall be reimbursed by the county  
12 treasurer to the State Treasurer within forty-five days after  
13 receipt of the settlement agreement or receipt of the forgiven  
14 refund. The amount so reimbursed shall be credited to the General  
15 Fund.

16           Sec. 19. Section 77-4105, Revised Statutes Supplement,  
17 2007, is amended to read:

18           77-4105 (1) A taxpayer who has signed an agreement under  
19 section 77-4104 may elect to determine taxable income for purposes  
20 of the Nebraska income tax using the sales factor only. The  
21 election may be made for the year during which the application was  
22 filed and for each year thereafter through the eighth year after  
23 the end of the entitlement period. The election shall be made for  
24 the year of the election by computing taxable income using the  
25 sales factor only on the tax return.

26           (2) A taxpayer who has signed an agreement under section  
27 77-4104 shall receive the incentive provided in this subsection



1 if the agreement contains one or more projects which together  
2 will result in the investment in qualified property of at least  
3 ten million dollars and the hiring of at least one hundred new  
4 employees. Such ten-million-dollar investment and hiring of at  
5 least one hundred new employees shall be considered a required  
6 level of investment and employment for this subsection and for the  
7 recapture of personal property tax only.

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

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

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

1           (c) Personal property which is business equipment located  
2 in a single project if (i) the business equipment is involved  
3 directly in the manufacture or processing of agricultural products  
4 and (ii) the investment in the single project exceeds ten million  
5 dollars.

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

26           (3) When the taxpayer has met the required levels of  
27 employment and investment contained in the agreement, the taxpayer

1 shall also be entitled to the following incentives:

2 (a) A refund of all sales and use taxes paid under  
3 the Nebraska Revenue Act of 1967, the Local Option Revenue  
4 Act, and sections 13-319, 13-324, and 13-2813 from the date of  
5 the application through the meeting of the required levels of  
6 employment and investment for all purchases, including rentals, of:

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

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

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

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

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

27 (4) Any taxpayer who qualifies for the incentives

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

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

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

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

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

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

24 Sec. 20. Section 77-5004, Revised Statutes Supplement,  
25 2007, is amended to read:

26 77-5004 (1) Each commissioner shall be a qualified voter  
27 and resident of the state and, for each commissioner representing

1 a congressional district, a domiciliary of the district he or she  
2 represents.

3 (2) Each commissioner shall devote his or her full time  
4 and efforts to the discharge of his or her duties and shall not  
5 hold any other office under the laws of this state, any city or  
6 county in this state, or the United States Government while serving  
7 on the commission. Each commissioner shall possess:

8 (a) Appropriate knowledge of terms commonly used in or  
9 related to real property appraisal and of the writing of appraisal  
10 reports;

11 (b) Adequate knowledge of depreciation theories, cost  
12 estimating, methods of capitalization, and real property appraisal  
13 mathematics;

14 (c) An understanding of the principles of land economics,  
15 appraisal processes, and problems encountered in the gathering,  
16 interpreting, and evaluating of data involved in the valuation of  
17 real property, including complex industrial properties and mass  
18 appraisal techniques;

19 (d) Knowledge of the law relating to taxation, civil and  
20 administrative procedure, due process, and evidence in Nebraska;

21 (e) At least thirty hours of successfully completed  
22 class hours in courses of study, approved by the Real Property  
23 Appraiser Board, which relate to appraisal and which include the  
24 fifteen-hour National Uniform Standards of Professional Appraisal  
25 Practice Course. If a commissioner has not received such training  
26 prior to his or her appointment, such training shall be completed  
27 within one year after appointment; and

1           (f) Such other qualifications and skills as reasonably  
2 may be requisite for the effective and reliable performance of the  
3 commission's duties.

4           (3) One commissioner shall possess any certification or  
5 training required to become a licensed real property appraiser as  
6 set forth in section 76-2230.

7           (4) Prior to January 1, 2002, the chairperson, and on and  
8 after January 1, 2002, at least two commissioners, shall have been  
9 engaged in the practice of law in the State of Nebraska for at  
10 least five years, which may include prior service as a judge, and  
11 shall be currently admitted to practice before the Nebraska Supreme  
12 Court.

13           (5) No commissioner or employee of the commission shall  
14 hold any position of profit or engage in any occupation or business  
15 interfering with or inconsistent with his or her duties as a  
16 commissioner or employee. A person is not eligible for appointment  
17 and may not hold the office of commissioner or be appointed by the  
18 commission to or hold any office or position under the commission  
19 if he or she holds any official office or position.

20           (6) (a) Each commissioner who meets the requirements of  
21 subsection (4) of this section on or after January 1, 2002, shall  
22 annually attend a seminar or class of at least two days' duration  
23 that is:

24           (i) Sponsored by a recognized assessment or appraisal  
25 organization, in each of these areas: Utility and railroad  
26 appraisal; appraisal of complex industrial properties; appraisal  
27 of other hard to assess properties; and mass appraisal, residential

1 or agricultural appraisal, or assessment administration; or

2 (ii) Pertaining to management, law, civil or  
3 administrative procedure, or other knowledge or skill necessary for  
4 performing the duties of the office.

5 (b) Each commissioner who does not meet the requirements  
6 of subsection (4) of this section on or after January 1, 2002,  
7 shall within two years after his or her appointment attend at least  
8 thirty hours of instruction that constitutes training for judges or  
9 administrative law judges.

10 (7) The commissioners shall be considered employees of  
11 the state for purposes of sections ~~81-1301 to 81-1391~~ 81-1320 to  
12 81-1328 and 84-1601 to 84-1615.

13 (8) The commissioners shall be reimbursed as prescribed  
14 in sections 81-1174 to 81-1177 for their actual and necessary  
15 expenses in the performance of their official duties pursuant to  
16 the Tax Equalization and Review Commission Act.

17 Sec. 21. Section 77-5019, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 77-5019 (1) Any party aggrieved by a final decision in  
20 a case appealed to the commission, any party aggrieved by a final  
21 decision of the commission on a petition, or any party aggrieved  
22 by an order of the commission issued pursuant to section 77-5020  
23 or sections 77-5023 to 77-5028 shall be entitled to judicial  
24 review in the Court of Appeals. Upon request of the county, the  
25 Attorney General may appear and represent the county or political  
26 subdivision in cases in which the commission is not a party.  
27 Nothing in this section shall be deemed to prevent resort to other

1 means of review, redress, or relief provided by law.

2 (2) (a) Proceedings for review shall be instituted by  
3 filing a petition and the appropriate docket fees in the Court  
4 of Appeals within thirty days after the date on which a final  
5 appealable order is entered by the commission. All parties of  
6 record shall be made parties to the proceedings for review. The  
7 commission shall only be made a party of record if the action  
8 complained of is an order issued by the commission pursuant to  
9 section 77-1504.01 or 77-5020 or sections 77-5023 to 77-5028.  
10 Summons shall be served on all parties within thirty days after  
11 the filing of the petition in the manner provided for service  
12 of a summons in section 25-510.02. The court, in its discretion,  
13 may permit other interested persons to intervene. No bond or  
14 undertaking is required for an appeal to the Court of Appeals.

15 (b) A petition for review shall set forth: (i) The name  
16 and mailing address of the petitioner; (ii) the name and mailing  
17 address of the county whose action is at issue or the commission;  
18 (iii) identification of the final decision at issue together with  
19 a duplicate copy of the final decision; (iv) the identification of  
20 the parties in the case that led to the final decision; (v) the  
21 facts to demonstrate proper venue; (vi) the petitioner's reasons  
22 for believing that relief should be granted; and (vii) a request  
23 for relief, specifying the type and extent of the relief requested.

24 (3) The filing of the petition or the service of summons  
25 upon the commission shall not stay enforcement of a decision. The  
26 commission may order a stay. The court may order a stay after  
27 notice of the application for the stay to the commission and to



1 all parties of record. The court may require the party requesting  
2 the stay to give bond in such amount and conditioned as the court  
3 directs.

4 (4) Upon receipt of a petition the date for submission  
5 of the official record shall be determined by the court. The  
6 commission shall prepare a certified copy of the official record of  
7 the proceedings had before the commission in the case. The official  
8 record, ~~unless limited by the written request of the petitioner,~~  
9 shall include: (a) Notice of all proceedings; (b) any pleadings,  
10 motions, requests, preliminary or intermediate rulings and orders,  
11 and similar correspondence to or from the commission pertaining to  
12 the case; (c) the transcribed record of the hearing before the  
13 commission, including all exhibits and evidence introduced during  
14 the hearing, a statement of matters officially noticed by the  
15 commission during the proceeding, and all proffers of proof and  
16 objections and rulings thereon; and (d) the final order appealed  
17 from. The official record in an appeal of a commission decision  
18 issued pursuant to sections 77-5023 to 77-5028 may be limited by  
19 the request of a petitioner to those parts of the record pertaining  
20 to a specific county. The commission shall charge the petitioner  
21 with the reasonable direct cost or require the petitioner to pay  
22 the cost for preparing the official record for transmittal to the  
23 court in all cases except when the petitioner is not required to  
24 pay a filing fee. If payment is required, payment of the cost,  
25 as estimated by the commission, for preparation of the official  
26 record shall be paid to the commission prior to preparation of the  
27 official record and the commission shall not transmit the official

1 record to the court until payment of the actual costs of its  
2 preparation is received.

3 (5) The review shall be conducted by the court for error  
4 on the record of the commission. If the court determines that  
5 the interest of justice would be served by the resolution of any  
6 other issue not raised before the commission, the court may remand  
7 the case to the commission for further proceedings. The court may  
8 affirm, reverse, or modify the decision of the commission or remand  
9 the case for further proceedings.

10 (6) Appeals under this section shall be given precedence  
11 over all civil cases.

12 Sec. 22. Section 77-5725, Revised Statutes Supplement,  
13 2007, is amended to read:

14 77-5725 (1) Applicants may qualify for benefits under the  
15 Nebraska Advantage Act in one of five tiers:

16 (a) Tier 1, investment in qualified property of at least  
17 one million dollars and the hiring of at least ten new employees.  
18 There shall be no new project applications for benefits under  
19 this tier filed on or after January 1, 2011, without further  
20 authorization of the Legislature. All complete project applications  
21 filed before January 1, 2011, shall be considered by the Tax  
22 Commissioner and approved if the project and taxpayer qualify  
23 for benefits. Agreements may be executed with regard to completed  
24 project applications filed before January 1, 2011. All project  
25 agreements pending, approved, or entered into before such date  
26 shall continue in full force and effect;

27 (b) Tier 2, investment in qualified property of at least

1 three million dollars and the hiring of at least thirty new  
2 employees;

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

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

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

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

25 (a) A refund of all sales and use taxes for a tier 2,  
26 tier 4, or tier 5 project or a refund of one-half of all sales and  
27 use taxes for a tier 1 project paid under the Local Option Revenue

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

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

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

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

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

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

26 (3) Any taxpayer who qualifies for a tier 1, tier 2,  
27 tier 3, or tier 4 project shall be entitled to a credit equal to

1 three percent times the average wage of new employees times the  
2 number of new employees if the average wage of the new employees  
3 equals at least sixty percent of the Nebraska average annual wage  
4 for the year of application. The credit shall equal four percent  
5 times the average wage of new employees times the number of new  
6 employees if the average wage of the new employees equals at least  
7 seventy-five percent of the Nebraska average annual wage for the  
8 year of application. The credit shall equal five percent times the  
9 average wage of new employees times the number of new employees  
10 if the average wage of the new employees equals at least one  
11 hundred percent of the Nebraska average annual wage for the year of  
12 application. The credit shall equal six percent times the average  
13 wage of new employees times the number of new employees if the  
14 average wage of the new employees equals at least one hundred  
15 twenty-five percent of the Nebraska average annual wage for the  
16 year of application. For computation of such credit:

17 (a) Average annual wage means the total compensation paid  
18 to employees during the year at the project who are not base-year  
19 employees and who are paid wages equal to at least sixty percent  
20 of the Nebraska average weekly wage for the year of application  
21 divided by the number of equivalent employees making up such total  
22 compensation;

23 (b) Average wage of new employees means the average  
24 annual wage paid to employees during the year at the project who  
25 are not base-year employees and who are paid wages equal to at  
26 least sixty percent of the Nebraska average weekly wage for the  
27 year of application; and

1           (c) Nebraska average annual wage means the Nebraska  
2 average weekly wage times fifty-two.

3           (4) Any taxpayer who has met the required levels of  
4 employment and investment for a tier 2 or tier 4 project shall  
5 receive a credit equal to ten percent of the investment made in  
6 qualified property at the project. Any taxpayer who has met the  
7 required levels of investment and employment for a tier 1 project  
8 shall receive a credit equal to three percent of the investment  
9 made in qualified property at the project.

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

15           (6) The credit prescribed in subsection (4) of this  
16 section shall also be allowable during the first year of the  
17 entitlement period for investment in qualified property at the  
18 project after the date of the application and before the required  
19 levels of employment and investment were met.

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

26           (b) The following property used in connection with such  
27 project or projects and acquired by the taxpayer, whether by

1 lease or purchase, after the date the application was filed shall  
2 constitute separate classes of personal property:

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

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

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

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

26 (c) Such property shall be eligible for exemption from  
27 the tax on personal property from the first January 1 following

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



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

17           Sec. 23. Section 81-1316, Revised Statutes Supplement,  
18 2007, is amended to read:

19           81-1316 (1) All agencies and personnel of state  
20 government shall be covered by sections 81-1301 to 81-1319 and  
21 shall be considered subject to the State Personnel System, except  
22 the following:

23           (a) All personnel of the office of the Governor;

24           (b) All personnel of the office of the Lieutenant  
25 Governor;

26           (c) All personnel of the office of the Secretary of  
27 State;

- 1 (d) All personnel of the office of the State Treasurer;
- 2 (e) All personnel of the office of the Attorney General;
- 3 (f) All personnel of the office of the Auditor of Public  
4 Accounts;
- 5 (g) All personnel of the Legislature;
- 6 (h) All personnel of the court systems;
- 7 (i) All personnel of the Board of Educational Lands and  
8 Funds;
- 9 (j) All personnel of the Public Service Commission;
- 10 (k) All personnel of the Nebraska Brand Committee;
- 11 (l) All personnel of the Commission of Industrial  
12 Relations;
- 13 (m) All personnel of the State Department of Education;
- 14 (n) All personnel of the Nebraska state colleges and the  
15 Board of Trustees of the Nebraska State Colleges;
- 16 (o) All personnel of the University of Nebraska;
- 17 (p) All personnel of the Coordinating Commission for  
18 Postsecondary Education;
- 19 (q) All personnel of the Governor's Policy Research  
20 Office, but not to include personnel within the State Energy  
21 Office;
- 22 (r) All personnel of the Commission on Public Advocacy;
- 23 (s) All agency heads;
- 24 (t) (i) The Director of Behavioral Health of the Division  
25 of Behavioral Health; (ii) the Director of Children and Family  
26 Services of the Division of Children and Family Services; (iii)  
27 the Director of Developmental Disabilities of the Division of

1 Developmental Disabilities; (iv) the Director of Medicaid and  
2 Long-Term Care of the Division of Medicaid and Long-Term Care; (v)  
3 the Director of Public Health of the Division of Public Health; and  
4 (vi) the Director of Veterans' Homes of the Division of Veterans'  
5 Homes;

6 (u) The chief medical officer established under section  
7 81-3115, the Administrator of the Office of Juvenile Services, and  
8 the chief executive officers of the Beatrice State Developmental  
9 Center, Lincoln Regional Center, Norfolk Regional Center, Hastings  
10 Regional Center, Grand Island Veterans' Home, Norfolk Veterans'  
11 Home, Eastern Nebraska Veterans' Home, Western Nebraska Veterans'  
12 Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth  
13 Rehabilitation and Treatment Center-Geneva;

14 (v) All personnel employed as pharmacists, physicians,  
15 psychiatrists, psychologists, service area administrators, or  
16 facility operating officers of the Department of Health and Human  
17 Services; and

18 (w) Deputies and examiners of the Department of Banking  
19 and Finance and the Department of Insurance as set forth in  
20 sections 8-105 and 44-119, except for those deputies and examiners  
21 who remain in the State Personnel System; and -

22 (x) All personnel of the Tax Equalization and Review  
23 Commission.

24 (2) At each agency head's discretion, up to the following  
25 number of additional positions may be exempted from the State  
26 Personnel System, based on the following agency size categories:

27                   Number of Agency                   Number of Noncovered

	Employees	Positions
1		
2	less than 25	0
3	25 to 100	1
4	101 to 250	2
5	251 to 500	3
6	501 to 1000	4
7	1001 to 2000	5
8	2001 to 3000	8
9	3001 to 4000	11
10	4001 to 5000	14
11	over 5000	25

12           The purpose of having such noncovered positions shall  
13 be to allow agency heads the opportunity to recruit, hire,  
14 and supervise critical, confidential, or policymaking personnel  
15 without restrictions from selection procedures, compensation rules,  
16 career protections, and grievance privileges. Persons holding the  
17 noncovered positions shall serve at the pleasure of the agency head  
18 and shall be paid salaries set by the agency head.

19           (3) No changes to this section or to the number of  
20 noncovered positions within an agency shall affect the status  
21 of personnel employed on the date the changes become operative  
22 without their prior written agreement. A state employee's career  
23 protections or coverage by personnel rules and regulations shall  
24 not be revoked by redesignation of the employee's position as a  
25 noncovered position without the prior written agreement of such  
26 employee.

27           Sec. 24. Sections 1 and 25 of this act become operative

1 on January 1, 2009. The other sections of this act become operative  
2 on their effective date.

3           Sec. 25. Original section 76-214, Revised Statutes  
4 Supplement, 2007, is repealed.

5           Sec. 26. Original sections 77-115, 77-1201, 77-1202.01,  
6 77-1210, 77-1214, 77-1219, 77-1230, 77-1233.02, 77-1233.03, and  
7 77-1734.01, Reissue Revised Statutes of Nebraska, sections 77-1234,  
8 77-1345.01, 77-1502, 77-1504.01, and 77-5019, Revised Statutes  
9 Cumulative Supplement, 2006, and sections 77-1233.04, 77-1233.06,  
10 77-1736.06, 77-4105, 77-5004, 77-5725, and 81-1316, Revised  
11 Statutes Supplement, 2007, are repealed.

12           Sec. 27. The following section is outright repealed:  
13 Section 77-202.13, Revised Statutes Supplement, 2007.

14           Sec. 28. Since an emergency exists, this act takes effect  
15 when passed and approved according to law.

16           2. On page 1, strike beginning with "77-1502" in line  
17 4 through the semicolon in line 11 and insert "77-1345.01,  
18 77-1502, 77-1504.01, and 77-5019, Revised Statutes Cumulative  
19 Supplement, 2006, and sections 76-214, 77-1233.04, 77-1233.06,  
20 77-1736.06, 77-4105, 77-5004, 77-5725, and 81-1316, Revised  
21 Statutes Supplement, 2007; to change provisions relating to real  
22 estate tax statements, county assessors, tangible personal property  
23 tax assessment, property tax protests and appeals, refunds,  
24 Tax Commissioner duties, and the Tax Equalization and Review  
25 Commission; to exempt personnel of the Tax Equalization and Review  
26 Commission from the State Personnel System;".