

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 583

Introduced by Dierks, 40.

Read first time January 21, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-2701.02, 77-2704.24, 79-1001, and 85-1517, Reissue  
3 Revised Statutes of Nebraska, and sections 77-2701,  
4 77-2701.16, 77-2703.01, 77-2715.07, and 77-3442, Revised  
5 Statutes Cumulative Supplement, 2008; to change the  
6 sales tax rate; to impose sales tax on services except  
7 medical; to impose sales tax on food and provide an  
8 income tax credit; to eliminate local option sales  
9 taxes; to eliminate property tax authority of community  
10 college areas; to provide state funding for school  
11 employees, school transportation, and community colleges;  
12 to create a fund for property tax relief; to harmonize  
13 provisions; to provide an operative date; to repeal  
14 the original sections; and to outright repeal sections

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1           13-319, 13-322, 13-323, 13-324, 13-325, 13-326, 13-2813,  
2           13-2814, 13-2815, 13-2816, 77-27,142, 77-27,142.01,  
3           77-27,142.02, 77-27,142.03, 77-27,142.04, 77-27,142.05,  
4           77-27,145, 77-27,146, 77-27,147, and 77-27,148, Reissue  
5           Revised Statutes of Nebraska, and sections 77-27,143 and  
6           77-27,144, Revised Statutes Cumulative Supplement, 2008.  
7   Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-2701, Revised Statutes Cumulative  
2 Supplement, 2008, is amended to read:

3           77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to  
4 77-27,236 and sections 7 to 10 of this act shall be known and may  
5 be cited as the Nebraska Revenue Act of 1967.

6           Sec. 2. Section 77-2701.02, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           77-2701.02 Pursuant to section 77-2715.01:

9           (1) Until July 1, 1998, the rate of the sales tax levied  
10 pursuant to section 77-2703 shall be five percent;

11           (2) Commencing July 1, 1998, and until July 1, 1999, the  
12 rate of the sales tax levied pursuant to section 77-2703 shall be  
13 four and one-half percent;

14           (3) Commencing July 1, 1999, and until the start of the  
15 first calendar quarter after July 20, 2002, the rate of the sales  
16 tax levied pursuant to section 77-2703 shall be five percent; ~~and~~

17           (4) Commencing on the start of the first calendar quarter  
18 after July 20, 2002, and until January 1, 2010, the rate of the  
19 sales tax levied pursuant to section 77-2703 shall be five and  
20 one-half percent; ~~and-~~

21           (5) Commencing January 1, 2010, the rate of the sales tax  
22 levied pursuant to section 77-2703 shall be xxx percent.

23           Sec. 3. Section 77-2701.16, Revised Statutes Cumulative  
24 Supplement, 2008, is amended to read:

25           77-2701.16 (1) Gross receipts means the total amount of

1 the sale or lease or rental price, as the case may be, of the  
2 retail sales of retailers.

3 (2) Gross receipts of every person engaged as a public  
4 utility specified in this subsection, as a community antenna  
5 television service operator, or as a satellite service operator or  
6 any person involved in connecting and installing services defined  
7 in subdivision (2)(a), (b), or (d) of this section means:

8 (a)(i) In the furnishing of telephone communication  
9 service, other than mobile telecommunications service as described  
10 in section 77-2703.04, the gross income received from furnishing  
11 local exchange telephone service and intrastate message toll  
12 telephone service; and

13 (ii) In the furnishing of mobile telecommunications  
14 service as described in section 77-2703.04, the gross income  
15 received from furnishing mobile telecommunications service that  
16 originates and terminates in the same state to a customer with a  
17 place of primary use in Nebraska;

18 (b) In the furnishing of telegraph service, the gross  
19 income received from the furnishing of intrastate telegraph  
20 services;

21 (c) In the furnishing of gas, electricity, sewer, and  
22 water service, the gross income received from the furnishing of  
23 such services upon billings or statements rendered to consumers for  
24 such utility services;

25 (d) In the furnishing of community antenna television

1 service or satellite service, the gross income received from  
2 the furnishing of such community antenna television service as  
3 regulated under sections 18-2201 to 18-2205 or 23-383 to 23-388 or  
4 satellite service; and

5 (e) The gross income received from the provision,  
6 installation, construction, servicing, or removal of property used  
7 in conjunction with the furnishing, installing, or connecting of  
8 any public utility services specified in subdivision (2)(a) or  
9 (b) of this section or community antenna television service or  
10 satellite service specified in subdivision (2)(d) of this section,  
11 except when acting as a subcontractor for a public utility,  
12 this subdivision does not apply to the gross income received by  
13 a contractor electing to be treated as a consumer of building  
14 materials under subdivision (2) or (3) of section 77-2701.10 for  
15 any such services performed on the customer's side of the utility  
16 demarcation point.

17 (3) Gross receipts of every person engaged in selling,  
18 leasing, or otherwise providing intellectual or entertainment  
19 property means:

20 (a) In the furnishing of computer software, the gross  
21 income received, including the charges for coding, punching, or  
22 otherwise producing any computer software and the charges for the  
23 tapes, disks, punched cards, or other properties furnished by the  
24 seller; and

25 (b) In the furnishing of videotapes, movie film,

1 satellite programming, satellite programming service, and satellite  
2 television signal descrambling or decoding devices, the gross  
3 income received from the license, franchise, or other method  
4 establishing the charge.

5 (4) Gross receipts for providing a service means the  
6 gross income received for all services except medical.+

7 ~~(a) The gross income received for building cleaning and~~  
8 ~~maintenance, pest control, and security;~~

9 ~~(b) The gross income received for motor vehicle washing,~~  
10 ~~waxing, towing, and painting;~~

11 ~~(c) The gross income received for computer software~~  
12 ~~training;~~

13 ~~(d) The gross income received for installing and applying~~  
14 ~~tangible personal property if the sale of the property is subject~~  
15 ~~to tax. If any or all of the charge for installation is free to~~  
16 ~~the customer and is paid by a third-party service provider, any~~  
17 ~~tax due on that part of the activation commission, finder's fee,~~  
18 ~~installation charge, or similar payment made by the third-party~~  
19 ~~service provider shall be paid by the third-party service provider~~  
20 ~~and collected and remitted by the installer;~~

21 ~~(e) The gross income received for services of~~  
22 ~~recreational vehicle parks;~~

23 ~~(f) The gross income received for labor for repair or~~  
24 ~~maintenance services performed with regard to tangible personal~~  
25 ~~property the sale of which would be subject to sales and use taxes,~~

1 ~~excluding motor vehicles, except as otherwise provided in section~~  
2 ~~77-2704.26 or 77-2704.50;~~

3 ~~(g) The gross income received for animal specialty~~  
4 ~~services except (i) veterinary services and (ii) specialty services~~  
5 ~~performed on livestock as defined in section 54-183; and~~

6 ~~(h) The gross income received for detective services.~~

7 (5) Gross receipts includes the sale of admissions which  
8 means the right or privilege to have access to or to use a place  
9 or location. An admission includes a membership that allows access  
10 to or use of a place or location, but which membership does not  
11 include the right to hold office, vote, or change the policies of  
12 the organization. When an admission to an activity or a membership  
13 constituting an admission pursuant to this subsection is combined  
14 with the solicitation of a contribution, the portion or the amount  
15 charged representing the fair market price of the admission shall  
16 be considered a retail sale subject to the tax imposed by section  
17 77-2703. The organization conducting the activity shall determine  
18 the amount properly attributable to the purchase of the privilege,  
19 benefit, or other consideration in advance, and such amount shall  
20 be clearly indicated on any ticket, receipt, or other evidence  
21 issued in connection with the payment.

22 (6) Gross receipts includes the sale of live plants  
23 incorporated into real estate except when such incorporation is  
24 incidental to the transfer of an improvement upon real estate or  
25 the real estate.

1           (7) Gross receipts includes the sale of any building  
2 materials annexed to real estate by a person electing to be taxed  
3 as a retailer pursuant to subdivision (1) of section 77-2701.10.

4           (8) Gross receipts includes the sale of prepaid telephone  
5 calling arrangements and the recharge of prepaid telephone calling  
6 arrangements. If the sale or recharge of a prepaid telephone  
7 calling arrangement does not take place at the vendor's place of  
8 business, the sale or recharge shall be conclusively determined  
9 to take place at the customer's shipping address or, if there is  
10 no item shipped, at the customer's billing address. For purposes  
11 of this subsection, a prepaid telephone calling arrangement means  
12 the right to exclusively purchase telecommunications services that  
13 are paid for in advance that enables the origination of calls  
14 using an access number or authorization code, whether manually or  
15 electronically dialed.

16           (9) Gross receipts includes the retail sale of digital  
17 audio works, digital audiovisual works, digital codes, and digital  
18 books delivered electronically if the products are taxable when  
19 delivered on tangible storage media. A sale includes the transfer  
20 of a permanent right of use, the transfer of a right of use that  
21 terminates on some condition, and the transfer of a right of use  
22 conditioned upon the receipt of continued payments.

23           (10) Gross receipts does not include:

24           (a) The amount of any rebate granted by a motor vehicle  
25 or motorboat manufacturer or dealer at the time of sale of the



1 motor vehicle or motorboat, which rebate functions as a discount  
2 from the sales price of the motor vehicle or motorboat; or

3 (b) The price of property or services returned or  
4 rejected by customers when the full sales price is refunded  
5 either in cash or credit.

6 Sec. 4. Section 77-2703.01, Revised Statutes Cumulative  
7 Supplement, 2008, is amended to read:

8 77-2703.01 (1) The determination of whether a sale or use  
9 of property or the provision of services is in this state, ~~in a~~  
10 ~~municipality that has adopted a tax under the Local Option Revenue~~  
11 ~~Act, or in a county that has adopted a tax under section 13-319~~  
12 shall be governed by the sourcing rules in sections 77-2703.01 to  
13 77-2703.04.

14 (2) When the property or service is received by the  
15 purchaser at a business location of the retailer, the sale is  
16 sourced to that business location.

17 (3) When the property or service is not received by the  
18 purchaser at a business location of the retailer, the sale is  
19 sourced to the location where receipt by the purchaser or the  
20 purchaser's donee, designated as such by the purchaser, occurs,  
21 including the location indicated by instructions for delivery to  
22 the purchaser or donee, known to the retailer.

23 (4) When subsection (2) or (3) of this section does not  
24 apply, the sale is sourced to the location indicated by an address  
25 or other information for the purchaser that is available from

1 the business records of the retailer that are maintained in the  
2 ordinary course of the retailer's business when use of this address  
3 does not constitute bad faith.

4 (5) When subsection (2), (3), or (4) of this section does  
5 not apply, the sale is sourced to the location indicated by an  
6 address for the purchaser obtained during the consummation of the  
7 sale, including the address of a purchaser's payment instrument, if  
8 no other address is available, when use of this address does not  
9 constitute bad faith.

10 (6) When subsection (2), (3), (4), or (5) of this section  
11 does not apply, including the circumstance in which the retailer  
12 is without sufficient information to apply the rules in any such  
13 subsection, then the location will be determined by the address  
14 from which property was shipped, from which the digital good was  
15 first available for transmission by the retailer, or from which the  
16 service was provided disregarding for these purposes any location  
17 that merely provided the digital transfer of the product sold.

18 (7) The lease or rental of tangible personal property,  
19 other than property identified in subsection (8) or (9) of this  
20 section, shall be sourced as follows:

21 (a) For a lease or rental that requires recurring  
22 periodic payments, the first periodic payment is sourced the same  
23 as a retail sale in accordance with the provisions of subsections  
24 (2) through (6) of this section. Periodic payments made subsequent  
25 to the first payment are sourced to the primary property location

1 for each period covered by the payment. The primary property  
2 location shall be as indicated by an address for the property  
3 provided by the lessee that is available to the lessor from its  
4 records maintained in the ordinary course of business when use of  
5 this address does not constitute bad faith. The property location  
6 shall not be altered by intermittent use at different locations,  
7 such as use of business property that accompanies employees on  
8 business trips and service calls; and

9 (b) For a lease or rental that does not require recurring  
10 periodic payments, the payment is sourced the same as a retail sale  
11 in accordance with the provisions of subsections (2) through (6) of  
12 this section.

13 This subsection does not affect the imposition or  
14 computation of sales or use tax on leases or rentals based on a  
15 lump-sum or accelerated basis or on the acquisition of property  
16 for lease.

17 (8) The lease or rental of motor vehicles, trailers,  
18 semitrailers, or aircraft that do not qualify as transportation  
19 equipment under subsection (9) of this section shall be sourced as  
20 follows:

21 (a) For a lease or rental that requires recurring  
22 periodic payments, each periodic payment is sourced to the primary  
23 property location. The primary property location shall be as  
24 indicated by an address for the property provided by the lessee  
25 that is available to the lessor from its records maintained in

1 the ordinary course of business when use of this address does  
2 not constitute bad faith. This location shall not be altered by  
3 intermittent use at different locations; and

4 (b) For a lease or rental that does not require recurring  
5 periodic payments, the payment is sourced the same as a retail sale  
6 in accordance with the provisions of subsections (2) through (6) of  
7 this section.

8 This subsection does not affect the imposition or  
9 computation of sales or use tax on leases or rentals based on a  
10 lump-sum or accelerated basis or on the acquisition of property  
11 for lease.

12 (9) The retail sale, including lease or rental, of  
13 transportation equipment shall be sourced the same as a retail sale  
14 in accordance with subsections (2) through (6) of this section.  
15 Transportation equipment means any of the following:

16 (a) Locomotives and railcars that are utilized for the  
17 carriage of persons or property in interstate commerce;

18 (b) Trucks and truck-tractors with a gross vehicle  
19 weight rating of ten thousand one pounds or greater, trailers,  
20 semitrailers, or passenger buses that are (i) registered through  
21 the International Registration Plan and (ii) operated under  
22 authority of a carrier authorized and certificated by the United  
23 States Department of Transportation or another federal authority  
24 to engage in the carriage of persons or property in interstate  
25 commerce;

1           (c) Aircraft operated by air carriers authorized and  
2 certificated by the United States Department of Transportation or  
3 another federal authority or a foreign authority to engage in the  
4 carriage of persons or property in interstate or foreign commerce;  
5 and

6           (d) Containers designed for use on and component parts  
7 attached or secured on the items set forth in subdivisions (9)(a)  
8 through (c) of this section.

9           (10) For purposes of this section, receive and receipt  
10 mean taking possession of tangible personal property, making first  
11 use of services, or taking possession or making first use of  
12 digital goods, whichever comes first. The terms receive and receipt  
13 do not include possession by a shipping company on behalf of the  
14 purchaser. For purposes of sourcing detective services subject to  
15 tax under ~~subdivision (4)(h)~~ subsection (4) of section 77-2701.16,  
16 making first use of a service shall be deemed to be at the  
17 individual's residence, in the case of a customer who is an  
18 individual, or at the principal place of business, in the case of  
19 a business customer.

20           (11) The sale, not including lease or rental, of a motor  
21 vehicle, semitrailer, or trailer as defined in the Motor Vehicle  
22 Registration Act shall be sourced to the place of registration of  
23 the motor vehicle, semitrailer, or trailer for operation upon the  
24 highways of this state.

25           (12) The sale or lease for one year or more of motorboats

1 shall be sourced to the place of registration of the motorboat. The  
2 lease of motorboats for less than one year shall be sourced to the  
3 point of delivery.

4 Sec. 5. Section 77-2704.24, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 77-2704.24 ~~(1)~~ Sales and use taxes shall not be imposed  
7 on the gross receipts from the sale, lease, or rental of and the  
8 storage, use, or other consumption in this state of food or food  
9 ingredients ~~except for prepared food and food sold through vending~~  
10 ~~machines.~~ purchased with food coupons issued by the United States  
11 Department of Agriculture.

12 ~~(2) For purposes of this section:~~

13 ~~(a) Alcoholic beverages means beverages that are suitable~~  
14 ~~for human consumption and contain one-half of one percent or more~~  
15 ~~of alcohol by volume;~~

16 ~~(b) Dietary supplement means any product, other than~~  
17 ~~tobacco, intended to supplement the diet that contains one or~~  
18 ~~more of the following dietary ingredients: (i) A vitamin, (ii) a~~  
19 ~~mineral, (iii) an herb or other botanical, (iv) an amino acid,~~  
20 ~~(v) a dietary substance for use by humans to supplement the diet~~  
21 ~~by increasing the total dietary intake, or (vi) a concentrate,~~  
22 ~~metabolite, constituent, extract, or combination of any ingredients~~  
23 ~~described in subdivisions (2)(b)(i) through (v) of this section,~~  
24 ~~that is intended for ingestion in tablet, capsule, powder, softgel,~~  
25 ~~gelcap, or liquid form or, if not intended for ingestion in such a~~

1 form, is not presented as conventional food and is not represented  
2 for use as a sole item of a meal or of the diet, and that is  
3 required to be labeled as a dietary supplement, identifiable by the  
4 supplemental facts box found on the label and as required pursuant  
5 to 21 C.F.R. 101.36, as such regulation existed on January 1, 2003,

6 (c) Food and food ingredients means substances, whether  
7 in liquid, concentrated, solid, frozen, dried, or dehydrated form,  
8 that are sold for ingestion or chewing by humans and are consumed  
9 for their taste or nutritional value. Food and food ingredients  
10 does not include alcoholic beverages, dietary supplements, or  
11 tobacco,

12 (d) Food sold through vending machines means food that is  
13 dispensed from a machine or other mechanical device that accepts  
14 payment,

15 (e) Prepared food means:

16 (i) Food sold with eating utensils provided by the  
17 seller, including plates, knives, forks, spoons, glasses, cups,  
18 napkins, or straws. A plate does not include a container or  
19 packaging used to transport the food; and

20 (ii) Two or more food ingredients mixed or combined by  
21 the seller for sale as a single item and food sold in a heated  
22 state or heated by the seller, except:

23 (A) Food that is only cut, repackaged, or pasteurized by  
24 the seller,

25 (B) Eggs, fish, meat, poultry, and foods containing these

1 raw animal foods requiring cooking by the consumer as recommended  
2 by the federal Food and Drug Administration in chapter 3, part  
3 401.11 of its Food Code, as it existed on January 1, 2003, so as to  
4 prevent food borne illnesses;

5 ~~(C) Food sold by a seller whose proper primary~~  
6 ~~North American Industry Classification System classification is~~  
7 ~~manufacturing in sector 311, except subsector 3118, bakeries;~~

8 ~~(D) Food sold in an unheated state by weight or volume as~~  
9 ~~a single item; and~~

10 ~~(E) Bakery items, including bread, rolls, buns, biscuits,~~  
11 ~~bagels, croissants, pastries, donuts, danish, cakes, tortes, pies,~~  
12 ~~tarts, muffins, bars, cookies, and tortillas; and~~

13 ~~(F) Tobacco means cigarettes, cigars, chewing or pipe~~  
14 ~~tobacco, or any other item that contains tobacco.~~

15 Sec. 6. Section 77-2715.07, Revised Statutes Cumulative  
16 Supplement, 2008, is amended to read:

17 77-2715.07 (1) There shall be allowed to qualified  
18 resident individuals as a nonrefundable credit against the income  
19 tax imposed by the Nebraska Revenue Act of 1967:

20 (a) A credit equal to the federal credit allowed under  
21 section 22 of the Internal Revenue Code; and

22 (b) A credit for taxes paid to another state as provided  
23 in section 77-2730.

24 (2) There shall be allowed to qualified resident  
25 individuals against the income tax imposed by the Nebraska Revenue



1 Act of 1967:

2 (a) For returns filed reporting federal adjusted  
3 gross incomes of greater than twenty-nine thousand dollars, a  
4 nonrefundable credit equal to twenty-five percent of the federal  
5 credit allowed under section 21 of the Internal Revenue Code of  
6 1986, as amended;

7 (b) For returns filed reporting federal adjusted gross  
8 income of twenty-nine thousand dollars or less, a refundable credit  
9 equal to a percentage of the federal credit allowable under section  
10 21 of the Internal Revenue Code of 1986, as amended, whether or  
11 not the federal credit was limited by the federal tax liability.  
12 The percentage of the federal credit shall be one hundred percent  
13 for incomes not greater than twenty-two thousand dollars, and  
14 the percentage shall be reduced by ten percent for each one  
15 thousand dollars, or fraction thereof, by which the reported  
16 federal adjusted gross income exceeds twenty-two thousand dollars;

17 (c) A refundable credit for individuals who qualify for  
18 an income tax credit as an owner of agricultural assets under the  
19 Beginning Farmer Tax Credit Act for all taxable years beginning or  
20 deemed to begin on or after January 1, 2001, under the Internal  
21 Revenue Code of 1986, as amended; and a refundable credit as  
22 provided in section 77-5209.01 for individuals who qualify for an  
23 income tax credit as a qualified beginning farmer or livestock  
24 producer under the Beginning Farmer Tax Credit Act for all taxable  
25 years beginning or deemed to begin on or after January 1, 2006,

1 under the Internal Revenue Code of 1986, as amended;

2 (d) A refundable credit for individuals who qualify for  
3 an income tax credit under the Nebraska Advantage Microenterprise  
4 Tax Credit Act or the Nebraska Advantage Research and Development  
5 Act; and

6 (e) A refundable credit equal to ten percent of the  
7 federal credit allowed under section 32 of the Internal Revenue  
8 Code of 1986, as amended.

9 (3) There shall be allowed to all individuals as a  
10 nonrefundable credit against the income tax imposed by the Nebraska  
11 Revenue Act of 1967:

12 (a) A credit for personal exemptions allowed under  
13 section 77-2716.01;

14 (b) A credit for contributions to certified community  
15 betterment programs as provided in the Community Development  
16 Assistance Act. Each partner, each shareholder of an electing  
17 subchapter S corporation, each beneficiary of an estate or trust,  
18 or each member of a limited liability company shall report his or  
19 her share of the credit in the same manner and proportion as he  
20 or she reports the partnership, subchapter S corporation, estate,  
21 trust, or limited liability company income; and

22 (c) A credit for investment in a biodiesel facility as  
23 provided in section 77-27,236.

24 (4) There shall be allowed as a credit against the income  
25 tax imposed by the Nebraska Revenue Act of 1967:

1           (a) A credit to all resident estates and trusts for taxes  
2 paid to another state as provided in section 77-2730; and

3           (b) A credit to all estates and trusts for contributions  
4 to certified community betterment programs as provided in the  
5 Community Development Assistance Act.

6           (5)(a) For all taxable years beginning on or after  
7 January 1, 2007, and before January 1, 2009, under the Internal  
8 Revenue Code of 1986, as amended, there shall be allowed to each  
9 partner, shareholder, member, or beneficiary of a partnership,  
10 subchapter S corporation, limited liability company, or estate or  
11 trust a nonrefundable credit against the income tax imposed by  
12 the Nebraska Revenue Act of 1967 equal to fifty percent of the  
13 partner's, shareholder's, member's, or beneficiary's portion of the  
14 amount of franchise tax paid to the state under sections 77-3801 to  
15 77-3807 by a financial institution.

16           (b) For all taxable years beginning on or after January  
17 1, 2009, under the Internal Revenue Code of 1986, as amended,  
18 there shall be allowed to each partner, shareholder, member, or  
19 beneficiary of a partnership, subchapter S corporation, limited  
20 liability company, or estate or trust a nonrefundable credit  
21 against the income tax imposed by the Nebraska Revenue Act of 1967  
22 equal to the partner's, shareholder's, member's, or beneficiary's  
23 portion of the amount of franchise tax paid to the state under  
24 sections 77-3801 to 77-3807 by a financial institution.

25           (c) Each partner, shareholder, member, or beneficiary

1 shall report his or her share of the credit in the same manner  
2 and proportion as he or she reports the partnership, subchapter S  
3 corporation, limited liability company, or estate or trust income.  
4 If any partner, shareholder, member, or beneficiary cannot fully  
5 utilize the credit for that year, the credit may not be carried  
6 forward or back.

7 (6) There shall be allowed to qualified resident  
8 individuals as a refundable credit against the income tax imposed  
9 by the Nebraska Revenue Act of 1967 a food sales tax credit as  
10 provided in sections 7 to 10 of this act.

11 Sec. 7. The base amount of the food sales tax credit  
12 allowed in section 77-2715.07 shall be fifty dollars multiplied by  
13 the number of personal exemptions allowed under section 77-2716.01.  
14 The amount actually allowed shall be computed as provided in  
15 section 8 of this act.

16 Sec. 8. (1) The amount of the food sales tax credit shall  
17 be determined by multiplying the base amount established in section  
18 7 of this act and the percentage established in the tables in this  
19 subsection based on the amount of federal adjusted gross income,  
20 after making the adjustments required in section 77-2716, reported  
21 or reportable on the income tax return.

22 The filing status used on the Nebraska individual income  
23 tax return and, for an individual who is not required to file an  
24 income tax return, the filing status that such individual would  
25 have been required to use shall determine which of the following

1 tables the individual shall use.

2 For all individuals with a filing status of single or  
3 married filing separate return:

4	<u>Income</u>	<u>But Not</u>	<u>Percentage</u>
5	<u>Over</u>	<u>Over</u>	<u>of Credit</u>
6			<u>Allowed</u>
7	<u>\$ 0</u>	<u>\$7,000</u>	<u>100</u>
8	<u>7,000</u>	<u>9,500</u>	<u>75</u>
9	<u>9,500</u>	<u>11,500</u>	<u>50</u>
10	<u>11,500</u>	<u>14,000</u>	<u>25</u>
11	<u>14,000</u>		<u>0</u>

12 For all individuals with a filing status of married  
13 filing joint return or head of household:

14	<u>Income</u>	<u>But Not</u>	<u>Percentage</u>
15	<u>Over</u>	<u>Over</u>	<u>of Credit</u>
16			<u>Allowed</u>
17	<u>\$ 0</u>	<u>\$10,000</u>	<u>100</u>
18	<u>10,000</u>	<u>17,000</u>	<u>75</u>
19	<u>17,000</u>	<u>24,000</u>	<u>50</u>
20	<u>24,000</u>	<u>30,000</u>	<u>25</u>
21	<u>30,000</u>		<u>0</u>

22 (2) The food sales tax credit as determined and adjusted  
23 under subsection (1) of this section shall be multiplied by the  
24 number of personal exemptions taken on the individual's Nebraska  
25 income tax return subject to section 9 of this act or, if no

1 Nebraska income tax return is filed, the number of personal  
2 exemptions which would have been allowed if the individual had  
3 filed a Nebraska income tax return.

4       Sec. 9. (1) No person who may be claimed as a personal  
5 exemption on another individual's income tax return shall be  
6 entitled to a food sales tax credit. If a food sales tax credit  
7 is claimed on more than one return for the same person, the Tax  
8 Commissioner may determine the individual entitled to claim the  
9 food sales tax credit or refund.

10       (2) The food sales tax credits under sections 7 to 9 of  
11 this act shall be claimed on income tax returns.

12       (3)(a) A food sales tax credit for a minor shall be  
13 claimed by the parent or guardian of the minor.

14       (b) No food sales tax credit shall be allowed unless a  
15 social security number is provided for any person who is required  
16 to have a social security number under the Internal Revenue Code in  
17 order to be claimed as a dependent.

18       (c) If a dependent is claimed as an exemption on a  
19 federal return by a nonresident taxpayer who does not file a return  
20 in this state, such dependent resides in this state, and the child  
21 support claimed by the nonresident taxpayer is substantially spent  
22 in this state, the taxpayer in this state who has legal custody of  
23 such dependent may claim such food sales tax credit for each such  
24 dependent.

25       Sec. 10. The Department of Revenue shall conduct a public

1 awareness program to inform the public of the availability of the  
2 food sales tax credit. The program shall provide information at  
3 locations where the public is likely to be subject to a food sales  
4 tax and in such other forms as determined by the Tax Commissioner.

5           Sec. 11. Section 77-3442, Revised Statutes Cumulative  
6 Supplement, 2008, is amended to read:

7           77-3442 (1) Property tax levies for the support of local  
8 governments for fiscal years beginning on or after July 1, 1998,  
9 shall be limited to the amounts set forth in this section except as  
10 provided in section 77-3444.

11           (2) (a) Except as provided in subdivision (2) (e) of this  
12 section, school districts and multiple-district school systems,  
13 except learning communities and school districts that are members  
14 of learning communities, may levy a maximum levy of ~~one dollar~~  
15 ~~and five cents~~ xxx per one hundred dollars of taxable valuation of  
16 property subject to the levy.

17           (b) For each fiscal year, learning communities may levy  
18 a maximum levy for the general fund budgets of member school  
19 districts of ~~ninety-five cents~~ xxx per one hundred dollars of  
20 taxable valuation of property subject to the levy. The proceeds  
21 from the levy pursuant to this subdivision shall be distributed  
22 pursuant to section 79-1073.

23           (c) Except as provided in subdivision (2) (e) of this  
24 section, for each fiscal year, school districts that are members  
25 of learning communities may levy for purposes of such districts'

1 general fund budget and special building funds a maximum combined  
2 levy of the difference of ~~one dollar and five cents~~ xxx on each  
3 one hundred dollars of taxable property subject to the levy minus  
4 the learning community levies pursuant to subdivisions (2)(b) and  
5 (2)(g) of this section for such learning community.

6 (d) Excluded from the limitations in subdivisions (2)(a)  
7 and (2)(c) of this section are amounts levied to pay for  
8 sums agreed to be paid by a school district to certificated  
9 employees in exchange for a voluntary termination of employment  
10 and amounts levied to pay for special building funds and sinking  
11 funds established for projects commenced prior to April 1, 1996,  
12 for construction, expansion, or alteration of school district  
13 buildings. For purposes of this subsection, commenced means any  
14 action taken by the school board on the record which commits  
15 the board to expend district funds in planning, constructing, or  
16 carrying out the project.

17 (e) Federal aid school districts may exceed the maximum  
18 levy prescribed by subdivision (2)(a) or (2)(c) of this section  
19 only to the extent necessary to qualify to receive federal aid  
20 pursuant to Title VIII of Public Law 103-382, as such title existed  
21 on September 1, 2001. For purposes of this subdivision, federal  
22 aid school district means any school district which receives ten  
23 percent or more of the revenue for its general fund budget from  
24 federal government sources pursuant to Title VIII of Public Law  
25 103-382, as such title existed on September 1, 2001.



1           (f) For school fiscal year 2002-03 through school fiscal  
2 year 2007-08, school districts and multiple-district school systems  
3 may, upon a three-fourths majority vote of the school board of  
4 the school district, the board of the unified system, or the  
5 school board of the high school district of the multiple-district  
6 school system that is not a unified system, exceed the maximum  
7 levy prescribed by subdivision (2)(a) of this section in an amount  
8 equal to the net difference between the amount of state aid that  
9 would have been provided under the Tax Equity and Educational  
10 Opportunities Support Act without the temporary aid adjustment  
11 factor as defined in section 79-1003 for the ensuing school fiscal  
12 year for the school district or multiple-district school system  
13 and the amount provided with the temporary aid adjustment factor.  
14 The State Department of Education shall certify to the school  
15 districts and multiple-district school systems the amount by which  
16 the maximum levy may be exceeded for the next school fiscal year  
17 pursuant to this subdivision (f) of this subsection on or before  
18 February 15 for school fiscal years 2004-05 through 2007-08.

19           (g) For each fiscal year, learning communities may levy a  
20 maximum levy of two cents on each one hundred dollars of taxable  
21 property subject to the levy for special building funds for member  
22 school districts. The proceeds from the levy pursuant to this  
23 subdivision shall be distributed pursuant to section 79-1073.01.

24           (h) For each fiscal year, learning communities may levy  
25 a maximum levy of five cents on each one hundred dollars of

1 taxable property subject to the levy for elementary learning center  
2 facilities and for up to fifty percent of the estimated cost for  
3 capital projects approved by the learning community coordinating  
4 council pursuant to section 79-2111.

5 ~~(3) Community colleges may levy a maximum levy calculated~~  
6 ~~pursuant to the Community College Foundation and Equalization Aid~~  
7 ~~Act on each one hundred dollars of taxable property subject to the~~  
8 ~~levy.~~

9 ~~(4)(a)~~ (3)(a) Natural resources districts may levy a  
10 maximum levy of four and one-half cents per one hundred dollars of  
11 taxable valuation of property subject to the levy.

12 (b) Natural resources districts shall also have the power  
13 and authority to levy a tax equal to the dollar amount by which  
14 their restricted funds budgeted to administer and implement ground  
15 water management activities and integrated management activities  
16 under the Nebraska Ground Water Management and Protection Act  
17 exceed their restricted funds budgeted to administer and implement  
18 ground water management activities and integrated management  
19 activities for FY2003-04, not to exceed one cent on each one  
20 hundred dollars of taxable valuation annually on all of the taxable  
21 property within the district.

22 (c) In addition, natural resources districts located in  
23 a river basin, subbasin, or reach that has been determined to  
24 be fully appropriated pursuant to section 46-714 or designated  
25 as overappropriated pursuant to section 46-713 by the Department

1 of Natural Resources shall also have the power and authority to  
2 levy a tax equal to the dollar amount by which their restricted  
3 funds budgeted to administer and implement ground water management  
4 activities and integrated management activities under the Nebraska  
5 Ground Water Management and Protection Act exceed their restricted  
6 funds budgeted to administer and implement ground water management  
7 activities and integrated management activities for FY2005-06, not  
8 to exceed three cents on each one hundred dollars of taxable  
9 valuation on all of the taxable property within the district for  
10 fiscal year 2006-07 and each fiscal year thereafter through fiscal  
11 year 2011-12.

12 ~~(5)~~ (4) Any educational service unit authorized to levy a  
13 property tax pursuant to section 79-1225 may levy a maximum levy of  
14 one and one-half cents per one hundred dollars of taxable valuation  
15 of property subject to the levy.

16 ~~(6)(a)~~ (5)(a) Incorporated cities and villages which  
17 are not within the boundaries of a municipal county may levy a  
18 maximum levy of forty-five cents per one hundred dollars of taxable  
19 valuation of property subject to the levy plus an additional five  
20 cents per one hundred dollars of taxable valuation to provide  
21 financing for the municipality's share of revenue required under  
22 an agreement or agreements executed pursuant to the Interlocal  
23 Cooperation Act or the Joint Public Agency Act. The maximum levy  
24 shall include amounts levied to pay for sums to support a library  
25 pursuant to section 51-201, museum pursuant to section 51-501,

1 visiting community nurse, home health nurse, or home health agency  
2 pursuant to section 71-1637, or statue, memorial, or monument  
3 pursuant to section 80-202.

4 (b) Incorporated cities and villages which are within the  
5 boundaries of a municipal county may levy a maximum levy of ninety  
6 cents per one hundred dollars of taxable valuation of property  
7 subject to the levy. The maximum levy shall include amounts paid  
8 to a municipal county for county services, amounts levied to pay  
9 for sums to support a library pursuant to section 51-201, a museum  
10 pursuant to section 51-501, a visiting community nurse, home health  
11 nurse, or home health agency pursuant to section 71-1637, or a  
12 statue, memorial, or monument pursuant to section 80-202.

13 ~~(7)~~ (6) Sanitary and improvement districts which have  
14 been in existence for more than five years may levy a maximum  
15 levy of forty cents per one hundred dollars of taxable valuation  
16 of property subject to the levy, and sanitary and improvement  
17 districts which have been in existence for five years or less shall  
18 not have a maximum levy. Unconsolidated sanitary and improvement  
19 districts which have been in existence for more than five years and  
20 are located in a municipal county may levy a maximum of eighty-five  
21 cents per hundred dollars of taxable valuation of property subject  
22 to the levy.

23 ~~(8)~~ (7) Counties may levy or authorize a maximum levy  
24 of fifty cents per one hundred dollars of taxable valuation of  
25 property subject to the levy, except that five cents per one

1 hundred dollars of taxable valuation of property subject to the  
2 levy may only be levied to provide financing for the county's  
3 share of revenue required under an agreement or agreements executed  
4 pursuant to the Interlocal Cooperation Act or the Joint Public  
5 Agency Act. The maximum levy shall include amounts levied to pay  
6 for sums to support a library pursuant to section 51-201 or museum  
7 pursuant to section 51-501. The county may allocate up to fifteen  
8 cents of its authority to other political subdivisions subject  
9 to allocation of property tax authority under subsection (1) of  
10 section 77-3443 and not specifically covered in this section to  
11 levy taxes as authorized by law which do not collectively exceed  
12 fifteen cents per one hundred dollars of taxable valuation on any  
13 parcel or item of taxable property. The county may allocate to  
14 one or more other political subdivisions subject to allocation  
15 of property tax authority by the county under subsection (1) of  
16 section 77-3443 some or all of the county's five cents per one  
17 hundred dollars of valuation authorized for support of an agreement  
18 or agreements to be levied by the political subdivision for the  
19 purpose of supporting that political subdivision's share of revenue  
20 required under an agreement or agreements executed pursuant to the  
21 Interlocal Cooperation Act or the Joint Public Agency Act. If an  
22 allocation by a county would cause another county to exceed its  
23 levy authority under this section, the second county may exceed the  
24 levy authority in order to levy the amount allocated.

25 ~~(9)~~ (8) Municipal counties may levy or authorize a

1 maximum levy of one dollar per one hundred dollars of taxable  
2 valuation of property subject to the levy. The municipal county  
3 may allocate levy authority to any political subdivision or entity  
4 subject to allocation under section 77-3443.

5 ~~(10)~~ (9) Property tax levies for judgments, except  
6 judgments or orders from the Commission of Industrial Relations,  
7 obtained against a political subdivision which require or obligate  
8 a political subdivision to pay such judgment, to the extent  
9 such judgment is not paid by liability insurance coverage of  
10 a political subdivision, for preexisting lease-purchase contracts  
11 approved prior to July 1, 1998, for bonded indebtedness approved  
12 according to law and secured by a levy on property except as  
13 provided in section 44-4317 for bonded indebtedness issued by  
14 educational service units and school districts, and for payments by  
15 a public airport to retire interest-free loans from the Department  
16 of Aeronautics in lieu of bonded indebtedness at a lower cost to  
17 the public airport are not included in the levy limits established  
18 by this section.

19 ~~(11)~~ (10) The limitations on tax levies provided in  
20 this section are to include all other general or special levies  
21 provided by law. Notwithstanding other provisions of law, the only  
22 exceptions to the limits in this section are those provided by or  
23 authorized by sections 77-3442 to 77-3444.

24 ~~(12)~~ (11) Tax levies in excess of the limitations in  
25 this section shall be considered unauthorized levies under section

1 77-1606 unless approved under section 77-3444.

2 ~~(13)~~ (12) For purposes of sections 77-3442 to 77-3444,  
3 political subdivision means a political subdivision of this state  
4 and a county agricultural society.

5 ~~(14)~~ (13) For school districts that file a binding  
6 resolution on or before May 9, 2008, with the county assessors,  
7 county clerks, and county treasurers for all counties in which  
8 the school district has territory pursuant to subsection (7) of  
9 section 79-458, if the combined levies, except levies for bonded  
10 indebtedness approved by the voters of the school district and  
11 levies for the refinancing of such bonded indebtedness, are in  
12 excess of the greater of (a) one dollar and twenty cents per  
13 one hundred dollars of taxable valuation of property subject to  
14 the levy or (b) the maximum levy authorized by a vote pursuant  
15 to section 77-3444, all school district levies, except levies for  
16 bonded indebtedness approved by the voters of the school district  
17 and levies for the refinancing of such bonded indebtedness, shall  
18 be considered unauthorized levies under section 77-1606.

19 Sec. 12. Section 79-1001, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 79-1001 Sections 79-1001 to 79-1033 and section 13 of  
22 this act shall be known and may be cited as the Tax Equity and  
23 Educational Opportunities Support Act.

24 Sec. 13. The compensation of all employees of school  
25 districts, educational service units, and learning communities,

1 including salary, retirement, health insurance, disability  
2 insurance, and all other financial employment concerns, shall be  
3 the financial responsibility of the state and shall be funded from  
4 the General Fund.

5 All transportation provided by school districts,  
6 educational service units, and learning communities shall be the  
7 financial responsibility of the state and shall be funded from the  
8 General Fund.

9 Notwithstanding any other provisions of the School  
10 Employees Retirement Act, contributions required under the act to  
11 be made by the employer shall be made by the State of Nebraska for  
12 all teachers who are members of the retirement system.

13 Notwithstanding any other provisions of the Class V  
14 School Employees Retirement Act, contributions required under the  
15 act to be made by the school district shall be made by the State of  
16 Nebraska for all teachers who are members of the retirement system.

17 Sec. 14. Section 85-1517, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 85-1517 (1) The board may certify to the county board of  
20 equalization of each county within the community college area a  
21 tax levy not to exceed the maximum levy calculated pursuant to the  
22 Community College Foundation and Equalization Aid Act on each one  
23 hundred dollars on the taxable valuation of all property subject to  
24 the levy within the community college area, uniform throughout such  
25 area, for the purpose of supporting operating expenditures of the



1 ~~community college area.~~

2           ~~(2)(a) In addition to the levies provided in subsection~~  
3 ~~(1) of this section and this subsection,~~ the (1)(a) The board may  
4 certify to the county board of equalization of each county within  
5 the community college area a tax levy of not to exceed one cent on  
6 each one hundred dollars on the taxable valuation of all property  
7 within the community college area, uniform throughout such area,  
8 for the purpose of establishing a capital improvement fund and bond  
9 sinking fund as provided in section 85-1515.

10           (b) ~~In addition to the levies provided in subsection~~  
11 ~~(1) of this section and this subsection,~~ The board may  
12 also certify to the county board of equalization of each county  
13 within the community college area a tax levy on each one hundred  
14 dollars on the taxable valuation of all property within the  
15 community college area, uniform throughout such area, in the amount  
16 which will produce funds only in the amount necessary to pay  
17 for funding accessibility barrier elimination project costs and  
18 abatement of environmental hazards as such terms are defined in  
19 section 79-10,110. Such tax levy shall not be so certified unless  
20 approved by an affirmative vote of a majority of the board taken at  
21 a public meeting of the board following notice and a hearing. The  
22 board shall give at least seven days' notice of such public hearing  
23 and shall publish such notice once in a newspaper of general  
24 circulation in the area to be affected by the increase.

25           (c) ~~In addition to the levies provided in subsection (1)~~

1 ~~of this section and this subsection,~~ The board of any community  
2 college area whose valuation per full-time equivalent student was  
3 less than eighty-two percent of the statewide average of all  
4 community colleges for fiscal year 1997-98 may also certify to the  
5 county board of equalization of each county within the community  
6 college area a tax levy up to an additional one-half cent for each  
7 of fiscal years 2005-06 and 2006-07, on each one hundred dollars on  
8 the taxable valuation of all property within the community college  
9 area, uniform throughout such area. Such tax levy shall not be so  
10 certified unless approved by an affirmative vote of three-fourths  
11 of the board taken at a public meeting of the board following  
12 notice and a hearing. The board shall give at least seven days'  
13 notice of such public hearing and shall publish such notice once in  
14 a newspaper of general circulation in the area to be affected by  
15 the increase.

16 ~~(3)~~ (2) The levy provided by subdivision ~~(2)(a)~~ (1)(a) of  
17 this section may be exceeded by that amount necessary to retire the  
18 general obligation bonds assumed by the community college area or  
19 issued pursuant to section 85-1515 according to the terms of such  
20 bonds or for any obligation pursuant to section 85-1535 entered  
21 into prior to January 1, 1997.

22 ~~(4)~~ (3) The tax shall be levied and assessed in the same  
23 manner as other property taxes and entered on the books of the  
24 county treasurer. The proceeds of the tax, as collected, shall be  
25 remitted to the treasurer of the board not less frequently than

1 once each month.

2           Sec. 15. Funding of community college areas shall be a  
3 state responsibility and shall be through the General Fund.

4           Sec. 16. The Property Tax Relief and Reorganization Fund  
5 is created. The fund shall be used to provide property tax relief  
6 in the manner prescribed by the Legislature. Any money in the fund  
7 available for investment shall be invested by the state investment  
8 officer pursuant to the Nebraska Capital Expansion Act and the  
9 Nebraska State Funds Investment Act.

10           Sec. 17. This act becomes operative on January 1, 2010.

11           Sec. 18. Original sections 77-2701.02, 77-2704.24,  
12 79-1001, and 85-1517, Reissue Revised Statutes of Nebraska, and  
13 sections 77-2701, 77-2701.16, 77-2703.01, 77-2715.07, and 77-3442,  
14 Revised Statutes Cumulative Supplement, 2008, are repealed.

15           Sec. 19. The following sections are outright repealed:  
16 Sections 13-319, 13-322, 13-323, 13-324, 13-325, 13-326, 13-2813,  
17 13-2814, 13-2815, 13-2816, 77-27,142, 77-27,142.01, 77-27,142.02,  
18 77-27,142.03, 77-27,142.04, 77-27,142.05, 77-27,145, 77-27,146,  
19 77-27,147, and 77-27,148, Reissue Revised Statutes of Nebraska,  
20 and sections 77-27,143 and 77-27,144, Revised Statutes Cumulative  
21 Supplement, 2008.