

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 681

Introduced by Flood, 19; Carlson, 38; Christensen, 44; Cornett, 45;
Langemeier, 23; at the request of the Governor.

Read first time March 03, 2009

Committee: Revenue

A BILL

- 1 FOR AN ACT relating to revenue and taxation; to provide for refund
- 2 of unconstitutional taxes, assessments, and penalties;
- 3 and to declare an emergency.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. If, by judgment or final order of any court
2 of competent jurisdiction in this state entered on or after
3 January 1, 2009, in an action not pending on appeal, it has
4 been adjudged and determined that any personal property, real
5 property, or occupation tax, assessment, or penalty or any part
6 thereof was unconstitutional and such judgment or order was not
7 made in time to prevent the collection or payment of such tax,
8 assessment, or penalty, then such tax, assessment, or penalty,
9 whether expended or not, which has been collected pursuant to such
10 unconstitutional tax, assessment, or penalty for the year such tax,
11 assessment, or penalty is determined to be unconstitutional and
12 for prior years beginning with the year the action challenging
13 the constitutionality was commenced shall, without the necessity
14 of filing a claim therefor, be repaid and refunded in the
15 county where originally paid to the person paying such tax,
16 assessment, or penalty. If the tax, assessment, or penalty declared
17 unconstitutional is applicable either throughout the state or in
18 taxing districts beyond the geographic jurisdiction of the court
19 making such declaration of unconstitutionality then, for purposes
20 of this section, a judgment or final order shall mean a judgment or
21 final order of the Supreme Court. This section is supplementary to
22 and does not replace section 77-1735. The refund shall be made in
23 the manner prescribed in section 77-1736.06.

24 Sec. 2. Since an emergency exists, this act takes effect
25 when passed and approved according to law.