LEGISLATION OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1084

Introduced by Briese, 41; Baker, 30; Brewer, 43; Erdman, 47; McDonnell, 5.

Read first time January 18, 2018

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701.02, 77-2701.32, and 79-1025, Reissue Revised Statutes of
3 Nebraska, sections 77-202, 77-382, 77-693, 77-801, 77-1116, 77-1238,
4 77-1248, 77-2602, 77-2701.16, 77-2701.35, 77-2704.24, 77-2715,
5 77-2716, 77-2717, 77-2734.01, 77-2912, and 79-1005.01, Revised
6 Statutes Cumulative Supplement, 2016, and sections 77-2701, 77-2703,
7 77-2704.10, 77-27,132, 77-3446, 79-1009, 79-1015.01, 79-1022,
8 79-1022.02, 79-1023, 79-1027, and 79-1031.01, Revised Statutes
9 Supplement, 2017; to adopt the Property Tax Request Limitation Act;
10 to provide sunset dates for the Personal Property Tax Relief Act,
11 the New Markets Job Growth Investment Act, and the Nebraska Job
12 Creation and Mainstreet Revitalization Act; to change and eliminate
13 provisions relating to a tax expenditure report, the cigarette tax,
14 the sales tax rate, sales tax on services, certain sales tax
15 exemptions, the alternative minimum tax, the tax on certain small
16 business corporation and limited liability company income, the
17 distribution of tax proceeds, the base limitation, and the tax on
18 certain extraordinary dividends and capital gains; to impose a
19 surtax on certain individuals; to impose sales and use taxes on the
20 sales of certain out-of-state retailers; to change the Tax Equity
21 and Educational Opportunities Support Act; to require a review of
22 school financing; to harmonize provisions; to provide operative
dates; to repeal the original sections; to outright repeal sections 77-2704.07, 77-2704.14, 77-2704.52, 77-2704.55, and 77-2715.09, Reissue Revised Statutes of Nebraska, and sections 77-2704.56, 77-2704.65, 77-2704.67, and 77-2715.08, Revised Statutes Cumulative Supplement, 2016; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 8 of this act shall be known and may be cited as the Property Tax Request Limitation Act.

Sec. 2. For purposes of the Property Tax Request Limitation Act:

(1) Approved bonds means bonds that are issued by a school district after the question of issuing such bonds has been approved by the voters of such school district;

(2) Average daily membership has the same meaning as in section 79-1003;

(3) Base growth percentage means the greater of (a) two and one-half percent or (b) the percentage increase in the Consumer Price Index for All Urban Consumers, as prepared by the United States Department of Labor, Bureau of Labor Statistics, for the twelve-month period ending on June 30 of the year in which the property tax request is made;

(4) Department means the State Department of Education;

(5) Non-property-tax revenue means revenue of a school district from all sources other than real and personal property taxes;

(6) Property tax request means the amount of property taxes requested by a school district pursuant to section 77-1601.02;

(7) Property tax request authority means the amount that may be included in a property tax request as determined pursuant to the Property Tax Request Limitation Act;

(8) School board has the same meaning as in section 79-101;

(9) School district has the same meaning as in section 79-101; and

(10) Student enrollment means the total number of students in the school district according to the fall school district membership report described in subsection (4) of section 79-528.

Sec. 3. (1) Except as provided in section 5 of this act, a school district’s property tax request for any year shall not exceed the school district’s property tax request authority.

(2) The school board of each school district shall calculate the school district’s property tax request authority each year as follows:
(a) The school district’s property tax request from the prior year
shall be increased by whichever of the following percentages is the
highest:

(i) The base growth percentage;

(ii) The annual percentage increase in the student enrollment of the
school district;

(iii) The annual percentage increase in the total number of limited
English proficiency students in the school district; or

(iv) The annual percentage increase in the total number of poverty
students in the school district; and

(b) The amount determined under subdivision (2)(a) of this section
shall then be:

(i) Decreased by an amount equal to the amount by which total non-
property-tax revenue for the current year exceeds the total non-property-
tax revenue for the prior year. In determining the total non-property-tax
revenue for the current year, any category of non-property-tax revenue
for which there is insufficient data as of August 1 to make an accurate
determination shall be considered to be equal to the prior year’s amount;

or

(ii) Increased by an amount equal to the amount by which total non-
property-tax revenue for the prior year exceeds the total non-property-
tax revenue for the current year. In determining the total non-property-
tax revenue for the current year, any category of non-property-tax revenue
for which there is insufficient data as of August 1 to make an
accurate determination shall be considered to be equal to the prior
year’s amount.

(3) The school board shall report the amount determined under
subsection (2) of this section to the department upon forms prescribed by
the department. If the department determines that such amount was
calculated correctly, the department shall approve and certify the amount
to the school board. Such certified amount shall be the school district's
Sec. 4. Section 3 of this act shall not apply to that portion of a school district’s property tax request that is needed to pay the principal and interest on approved bonds.

Sec. 5. (1) A school district's property tax request may exceed its property tax request authority by an amount approved by a majority of legal voters voting on the issue at a special election called for such purpose upon the recommendation of the school board of such school district or upon the receipt by the county clerk or election commissioner of a petition requesting an election signed by at least five percent of the legal voters of the school district. The recommendation of the school board or the petition of the legal voters shall include the amount by which the school board would increase its property tax request for the year over and above the property tax request authority of such school district. The county clerk or election commissioner shall call for a special election on the issue within thirty days after the receipt of such school board recommendation or legal voter petition. The election shall be held pursuant to the Election Act, and all costs shall be paid by the school board.

(2) A school district’s property tax request may exceed its property tax request authority by a percentage approved by an affirmative vote of at least seventy-five percent of the school board. Such percentage shall not exceed:

(a) Seven percent for school districts with an average daily membership of up to four hundred seventy-one students;

(b) Six percent for school districts with an average daily membership of more than four hundred seventy-one students but no more than three thousand forty-four students;

(c) Five percent for school districts with an average daily membership of more than three thousand forty-four students but no more than ten thousand students; or
(d) Four percent for school districts with an average daily membership of more than ten thousand students.

Sec. 6. A school district may choose not to increase its property tax request by the full amount allowed by the school district's property tax request authority in a particular year. In such cases, the school district may carry forward to future years the amount of unused property tax request authority. The school board shall calculate its unused property tax request authority and submit an accounting of such amount to the department on forms prescribed by the department. Such unused property tax request authority may then be used in later years for increases in the school district's property tax request.

Sec. 7. The department shall prepare documents to be used by school boards when calculating a school district’s property tax request authority and unused property tax request authority. Each school board shall submit such documents to the department on or before September 20 of each year. If a school board fails to submit such documents to the department or if the department determines from such documents that a school district is not complying with the limits provided in the Property Tax Request Limitation Act, the department shall notify the school board of its determination. The Commissioner of Education shall then direct that any state aid granted pursuant to the Tax Equity and Educational Opportunities Support Act be withheld until such time as the school board submits the required documents or complies with the Property Tax Request Limitation Act. The state aid shall be held for six months. If the school board complies within the six-month period, it shall receive the suspended state aid. If the school board fails to comply within the six-month period, the suspended state aid shall revert to the General Fund.

Sec. 8. The department may adopt and promulgate rules and regulations to carry out the Property Tax Request Limitation Act.

Sec. 9. Section 77-202, Revised Statutes Cumulative Supplement, 2016, is amended to read:
The following property shall be exempt from property taxes:

(a) Property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose. For purposes of this subdivision:

(i) Property of the state and its governmental subdivisions means (A) property held in fee title by the state or a governmental subdivision or (B) property beneficially owned by the state or a governmental subdivision in that it is used for a public purpose and is being acquired under a lease-purchase agreement, financing lease, or other instrument which provides for transfer of legal title to the property to the state or a governmental subdivision upon payment of all amounts due thereunder.

If the property to be beneficially owned by a governmental subdivision has a total acquisition cost that exceeds the threshold amount or will be used as the site of a public building with a total estimated construction cost that exceeds the threshold amount, then such property shall qualify for an exemption under this section only if the question of acquiring such property or constructing such public building has been submitted at a primary, general, or special election held within the governmental subdivision and has been approved by the voters of the governmental subdivision. For purposes of this subdivision, threshold amount means the greater of fifty thousand dollars or six-tenths of one percent of the total actual value of real and personal property of the governmental subdivision that will beneficially own the property as of the end of the governmental subdivision's prior fiscal year; and

(ii) Public purpose means use of the property (A) to provide public services with or without cost to the recipient, including the general operation of government, public education, public safety, transportation, public works, civil and criminal justice, public health and welfare, developments by a public housing authority, parks, culture, recreation, community development, and cemetery purposes, or (B) to carry out the
duties and responsibilities conferred by law with or without consideration. Public purpose does not include leasing of property to a private party unless the lease of the property is at fair market value for a public purpose. Leases of property by a public housing authority to low-income individuals as a place of residence are for the authority's public purpose;

(b) Unleased property of the state or its governmental subdivisions which is not being used or developed for use for a public purpose but upon which a payment in lieu of taxes is paid for public safety, rescue, and emergency services and road or street construction or maintenance services to all governmental units providing such services to the property. Except as provided in Article VIII, section 11, of the Constitution of Nebraska, the payment in lieu of taxes shall be based on the proportionate share of the cost of providing public safety, rescue, or emergency services and road or street construction or maintenance services unless a general policy is adopted by the governing body of the governmental subdivision providing such services which provides for a different method of determining the amount of the payment in lieu of taxes. The governing body may adopt a general policy by ordinance or resolution for determining the amount of payment in lieu of taxes by majority vote after a hearing on the ordinance or resolution. Such ordinance or resolution shall nevertheless result in an equitable contribution for the cost of providing such services to the exempt property;

(c) Property owned by and used exclusively for agricultural and horticultural societies;

(d) Property owned by educational, religious, charitable, or cemetery organizations, or any organization for the exclusive benefit of any such educational, religious, charitable, or cemetery organization, and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not (i) owned or used for financial gain
or profit to either the owner or user, (ii) used for the sale of
alcoholic liquors for more than twenty hours per week, or (iii) owned or
used by an organization which discriminates in membership or employment
based on race, color, or national origin. For purposes of this
subdivision, educational organization means (A) an institution operated
exclusively for the purpose of offering regular courses with systematic
instruction in academic, vocational, or technical subjects or assisting
students through services relating to the origination, processing, or
guarantying of federally reinsured student loans for higher education or
(B) a museum or historical society operated exclusively for the benefit
and education of the public. For purposes of this subdivision, charitable
organization includes an organization operated exclusively for the
purpose of the mental, social, or physical benefit of the public or an
indefinite number of persons and a fraternal benefit society organized
and licensed under sections 44-1072 to 44-10,109; and
(e) Household goods and personal effects not owned or used for
financial gain or profit to either the owner or user.
(2) The increased value of land by reason of shade and ornamental
trees planted along the highway shall not be taken into account in the
valuation of land.
(3) Tangible personal property which is not depreciable tangible
personal property as defined in section 77-119 shall be exempt from
property tax.
(4) Motor vehicles, trailers, and semitrailers required to be
registered for operation on the highways of this state shall be exempt
from payment of property taxes.
(5) Business and agricultural inventory shall be exempt from the
personal property tax. For purposes of this subsection, business
inventory includes personal property owned for purposes of leasing or
renting such property to others for financial gain only if the personal
property is of a type which in the ordinary course of business is leased
or rented thirty days or less and may be returned at the option of the
lessee or renter at any time and the personal property is of a type which
would be considered household goods or personal effects if owned by an
individual. All other personal property owned for purposes of leasing or
renting such property to others for financial gain shall not be
considered business inventory.

(6) Any personal property exempt pursuant to subsection (2) of
section 77-4105 or section 77-5209.02 shall be exempt from the personal
property tax.

(7) Livestock shall be exempt from the personal property tax.

(8) Any personal property exempt pursuant to the Nebraska Advantage
Act shall be exempt from the personal property tax.

(9) Any depreciable tangible personal property used directly in the
generation of electricity using wind as the fuel source shall be exempt
from the property tax levied on depreciable tangible personal property.
Any depreciable tangible personal property used directly in the
generation of electricity using solar, biomass, or landfill gas as the
fuel source shall be exempt from the property tax levied on depreciable
tangible personal property if such depreciable tangible personal property
was installed on or after January 1, 2016, and has a nameplate capacity
of one hundred kilowatts or more. Depreciable tangible personal property
used directly in the generation of electricity using wind, solar,
biomass, or landfill gas as the fuel source includes, but is not limited
to, wind turbines, rotors and blades, towers, solar panels, trackers,
generating equipment, transmission components, substations, supporting
structures or racks, inverters, and other system components such as
wiring, control systems, switchgears, and generator step-up transformers.

(10) Any tangible personal property that is acquired by a person
operating a data center located in this state, that is assembled,
engineered, processed, fabricated, manufactured into, attached to, or
incorporated into other tangible personal property, both in component
form or that of an assembled product, for the purpose of subsequent use
at a physical location outside this state by the person operating a data
center shall be exempt from the personal property tax. Such exemption
extends to keeping, retaining, or exercising any right or power over
tangible personal property in this state for the purpose of subsequently
transporting it outside this state for use thereafter outside this state.
For purposes of this subsection, data center means computers, supporting
equipment, and other organized assembly of hardware or software that are
designed to centralize the storage, management, or dissemination of data
and information, environmentally controlled structures or facilities or
interrelated structures or facilities that provide the infrastructure for
housing the equipment, such as raised flooring, electricity supply,
communication and data lines, Internet access, cooling, security, and
fire suppression, and any building housing the foregoing.

(11) For each person who owns property required to be reported to
the county assessor under section 77-1201, there shall be allowed, for
tax years prior to tax year 2019, an exemption amount as provided in the
Personal Property Tax Relief Act. For each person who owns property
required to be valued by the state as provided in section 77-601, 77-682,
77-801, or 77-1248, there shall be allowed, for tax years prior to tax
year 2019, a compensating exemption factor as provided in the Personal
Property Tax Relief Act.

Sec. 10. Section 77-382, Revised Statutes Cumulative Supplement,
2016, is amended to read:
77-382 (1) The department shall prepare a tax expenditure report
describing (a) the basic provisions of the Nebraska tax laws, (b) the
actual or estimated revenue loss caused by the exemptions, deductions,
exclusions, deferrals, credits, and preferential rates in effect on July
1 of each year and allowed under Nebraska's tax structure and in the
property tax, (c) the actual or estimated revenue loss caused by failure
to impose sales and use tax on services purchased for nonbusiness use,
and (d) the elements which make up the tax base for state and local income, including income, sales and use, property, and miscellaneous taxes.

(2) The department shall review the major tax exemptions for which state general funds are used to reduce the impact of revenue lost due to a tax expenditure. The report shall indicate an estimate of the amount of the reduction in revenue resulting from the operation of all tax expenditures. The report shall list each tax expenditure relating to sales and use tax under the following categories:

(a) Agriculture, which shall include a separate listing for the following items: Agricultural machinery; agricultural chemicals; seeds sold to commercial producers; water for irrigation and manufacturing; commercial artificial insemination; mineral oil as dust suppressant; animal grooming; oxygen for use in aquaculture; animal life whose products constitute food for human consumption; and grains;

(b) Business across state lines, which shall include a separate listing for the following items: Property shipped out-of-state; fabrication labor for items to be shipped out-of-state; property to be transported out-of-state; property purchased in other states to be used in Nebraska; aircraft delivery to an out-of-state resident or business; state reciprocal agreements for industrial machinery; and property taxed in another state;

(c) Common carrier and logistics, which shall include a separate listing for the following items: Railroad rolling stock and repair parts and services; common or contract carriers and repair parts and services; common or contract carrier accessories; and common or contract carrier safety equipment;

(d) Consumer goods, which shall include a separate listing for the following items: Merchandise Motor vehicles and motorboat trade-ins; merchandise trade-ins; certain medical equipment and medicine; newspapers; laundromats; telefloral deliveries; motor vehicle discounts.
for the disabled; and political campaign fundraisers;

(e) Energy, which shall include a separate listing for the following items: Motor fuels; energy used in industry; energy used in agriculture; aviation fuel; and minerals, oil, and gas severed from real property;

(f) Food, which shall include a separate listing for the following items: Food for home consumption; Supplemental Nutrition Assistance Program; school lunches; meals sold by hospitals; meals sold by institutions at a flat rate; food for the elderly, handicapped, and Supplemental Security Income recipients; and meals sold by churches;

(g) General business, which shall include a separate listing for the following items: Component and ingredient parts; manufacturing machinery; containers; film rentals; molds and dies; syndicated programming; intercompany sales; intercompany leases; sale of a business or farm machinery; and transfer of property in a change of business ownership;

(h) Lodging and shelter, which shall include a separate listing for the following item: Room rentals by certain institutions;

(i) Miscellaneous, which shall include a separate listing for the following items: Cash discounts and coupons; separately stated finance charges; casual sales; lease-to-purchase agreements; and separately stated taxes;

(j) Nonprofits, governments, and exempt entities, which shall include a separate listing for the following items: Purchases by political subdivisions of the state; purchases by churches and nonprofit colleges and medical facilities; purchasing agents for public real estate construction improvements; contractor as purchasing agent for public agencies; Nebraska lottery; admissions to school events; sales on Native American Indian reservations; school-supporting fundraisers; fine art purchases by a museum; purchases by the Nebraska State Fair Board; purchases by the Nebraska Investment Finance Authority and licensees of the State Racing Commission; purchases by the United States Government; public records; and sales by religious organizations;
(k) Recent sales tax expenditures, which shall include a separate listing for each sales tax expenditure created by statute or rule and regulation after July 19, 2012;

(l) Services purchased for nonbusiness use, which shall include a separate listing for each such service, including, but not limited to, the following items: Motor vehicle cleaning, maintenance, and repair services; cleaning and repair of clothing; cleaning, maintenance, and repair of other tangible personal property; maintenance, painting, and repair of real property; entertainment admissions; personal care services; lawn care, gardening, and landscaping services; pet-related services; storage and moving services; household utilities; other personal services; taxi, limousine, and other transportation services; legal services; accounting services; and other professional services; and other real estate services; and

(m) Telecommunications, which shall include a separate listing for the following items: Telecommunications access charges; prepaid calling arrangements; conference bridging services; and nonvoice data services.

(3) It is the intent of the Legislature that nothing in the Tax Expenditure Reporting Act shall cause the valuation or assessment of any property exempt from taxation on the basis of its use exclusively for religious, educational, or charitable purposes.

Sec. 11. Section 77-693, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-693 (1) The Property Tax Administrator in determining the taxable value of railroads and car lines shall determine the following ratios involving railroad and car line property and commercial and industrial property:

(a) The ratio of the taxable value of all commercial and industrial personal property in the state actually subjected to property tax divided by the market value of all commercial and industrial personal property in the state;
(b) The ratio of the taxable value of all commercial and industrial real property in the state actually subjected to property tax divided by the market value of all commercial and industrial real property in the state;

(c) The ratio of the taxable value of railroad personal property to the market value of railroad personal property. The numerator of the ratio shall be the taxable value of railroad personal property. The denominator of the ratio shall be the railroad system value allocated to Nebraska and multiplied by a factor representing the net book value of rail transportation personal property divided by the net book value of total rail transportation property;

(d) The ratio of the taxable value of railroad real property to the market value of railroad real property. The numerator of the ratio shall be the taxable value of railroad real property. The denominator of the ratio shall be the railroad system value allocated to Nebraska and multiplied by a factor representing the net book value of rail transportation real property divided by the net book value of total rail transportation property; and

(e) Similar calculations shall be made for car line taxable properties.

(2) If the ratio of the taxable value of railroad and car line personal or real property exceeds the ratio of the comparable taxable commercial and industrial property by more than five percent, the Property Tax Administrator may adjust the value of such railroad and car line property to the percentage of the comparable taxable commercial and industrial property pursuant to federal statute or Nebraska federal court decisions applicable thereto.

(3) For purposes of this section, commercial and industrial property shall mean all real and personal property which is devoted to commercial or industrial use other than rail transportation property and land used primarily for agricultural purposes.
(4) After the adjustment made pursuant to subsections (1) and (2) of this section, the Property Tax Administrator shall, for tax years prior to tax year 2019, multiply the value of the tangible personal property of each railroad and car line by the compensating exemption factor calculated in section 77-1238.

Sec. 12. Section 77-801, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-801 (1) All public service entities shall, on or before April 15 of each year, furnish a statement specifying such information as may be required by the Property Tax Administrator on forms prescribed by the Tax Commissioner to determine and distribute the entity's total taxable value including the franchise value. All information reported by the public service entities, not available from any other public source, and any memorandum thereof shall be confidential and available to taxing officials only. For good cause shown, the Property Tax Administrator may allow an extension of time in which to file such statement. Such extension shall not exceed fifteen days after April 15.

(2) The returns of public service entities shall not be held to be conclusive as to the taxable value of the property, but the Property Tax Administrator shall, from all the information which he or she is able to obtain, find the taxable value of all such property, including tangible property and franchises, and shall assess such property on the same basis as other property is required to be assessed.

(3) The county assessor shall assess all nonoperating property of any public service entity. A public service entity operating within the State of Nebraska shall, on or before January 1 of each year, report to the county assessor of each county in which it has situs all nonoperating property belonging to such entity which is not subject to assessment and assessed by the Property Tax Administrator under section 77-802.

(4) The Property Tax Administrator shall, for tax years prior to tax year 2019, multiply the value of the tangible personal property of each
public service entity by the compensating exemption factor calculated in
section 77-1238.

Sec. 13. Section 77-1116, Revised Statutes Cumulative Supplement,
2016, is amended to read:

77-1116 (1) A qualified community development entity that seeks to
have an equity investment or long-term debt security designated as a
qualified equity investment and eligible for tax credits under the New
Markets Job Growth Investment Act shall apply to the Tax Commissioner.
There shall be no new applications for such designation filed under this
section after December 31, 2018.

(2) The qualified community development entity shall submit an
application on a form that the Tax Commissioner provides that includes:

(a) Evidence of the entity's certification as a qualified community
development entity, including evidence of the service area of the entity
that includes this state;

(b) A copy of the allocation agreement executed by the entity, or
its controlling entity, and the Community Development Financial
Institutions Fund referred to in section 77-1109;

(c) A certificate executed by an executive officer of the entity
attesting that the allocation agreement remains in effect and has not
been revoked or canceled by the Community Development Financial
Institutions Fund referred to in section 77-1109;

(d) A description of the proposed amount, structure, and purchaser
of the equity investment or long-term debt security;

(e) Identifying information for any taxpayer eligible to utilize tax
credits earned as a result of the issuance of the qualified equity
investment;

(f) Information regarding the proposed use of proceeds from the
issuance of the qualified equity investment; and

(g) A nonrefundable application fee of five thousand dollars.

(3) Within thirty days after receipt of a completed application
containing the information necessary for the Tax Commissioner to certify
a potential qualified equity investment, including the payment of the
application fee, the Tax Commissioner shall grant or deny the application
in full or in part. If the Tax Commissioner denies any part of the
application, the Tax Commissioner shall inform the qualified community
development entity of the grounds for the denial. If the qualified
community development entity provides any additional information required
by the Tax Commissioner or otherwise completes its application within
fifteen days after the notice of denial, the application shall be
considered completed as of the original date of submission. If the
qualified community development entity fails to provide the information
or complete its application within the fifteen-day period, the
application remains denied and must be resubmitted in full with a new
submission date.

(4) If the application is deemed complete, the Tax Commissioner
shall certify the proposed equity investment or long-term debt security
as a qualified equity investment that is eligible for tax credits,
subject to the limitations contained in section 77-1115. The Tax
Commissioner shall provide written notice of the certification to the
qualified community development entity. The notice shall include the
names of those taxpayers who are eligible to utilize the credits and
their respective credit amounts. If the names of the taxpayers who are
eligible to utilize the credits change due to a transfer of a qualified
equity investment or a change in an allocation pursuant to section
77-1114, the qualified community development entity shall notify the Tax
Commissioner of such change.

(5) The Tax Commissioner shall certify qualified equity investments
in the order applications are received. Applications received on the same
day shall be deemed to have been received simultaneously. For
applications received on the same day and deemed complete, the Tax
Commissioner shall certify, consistent with remaining tax credit
capacity, qualified equity investments in proportionate percentages based upon the ratio of the amount of qualified equity investment requested in an application to the total amount of qualified equity investments requested in all applications received on the same day.

(6) Once the Tax Commissioner has certified qualified equity investments that, on a cumulative basis, are eligible for the maximum limitation contained in section 77-1115, the Tax Commissioner may not certify any more qualified equity investments for that fiscal year. If a pending request cannot be fully certified, the Tax Commissioner shall certify the portion that may be certified unless the qualified community development entity elects to withdraw its request rather than receive partial credit.

(7) Within thirty days after receiving notice of certification, the qualified community development entity shall issue the qualified equity investment and receive cash in the amount of the certified amount. The qualified community development entity shall provide the Tax Commissioner with evidence of the receipt of the cash investment within ten business days after receipt. If the qualified community development entity does not receive the cash investment and issue the qualified equity investment within thirty days after receipt of the certification notice, the certification shall lapse and the entity may not issue the qualified equity investment without reapplying to the Tax Commissioner for certification. A certification that lapses reverts back to the Tax Commissioner and may be reissued only in accordance with the application process outlined in this section.

Sec. 14. Section 77-1238, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-1238 (1) For tax years prior to tax year 2019, every person who is required to list his or her taxable tangible personal property as defined in section 77-105, as required under section 77-1229, shall receive an exemption from taxation for the first ten thousand dollars of
valuation of his or her tangible personal property in each tax district
as defined in section 77-127 in which a personal property return is
required to be filed. Failure to report tangible personal property on the
personal property return required by section 77-1229 shall result in a
forfeiture of the exemption for any tangible personal property not timely
reported for that year.

(2) For tax years prior to tax year 2019, the Property Tax
Administrator shall reduce the value of the tangible personal property
owned by each railroad, car line company, public service entity, and air
carrier by a compensating exemption factor to reflect the exemption
allowed in subsection (1) of this section for all other personal property
taxpayers. The compensating exemption factor is calculated by multiplying
the value of the tangible personal property of the railroad, car line
company, public service entity, or air carrier by a fraction, the
numerator of which is the total amount of locally assessed tangible
personal property that is actually subjected to property tax after the
exemption allowed in subsection (1) of this section, and the denominator
of which is the net book value of locally assessed tangible personal
property prior to the exemptions allowed in subsection (1) of this
section.

Sec. 15. Section 77-1248, Revised Statutes Cumulative Supplement,
2016, is amended to read:

77-1248 (1) The Property Tax Administrator shall ascertain from the
reports made and from any other information obtained by him or her the
taxable value of the flight equipment of air carriers and the proportion
allocated to this state for the purposes of taxation as provided in
section 77-1245.

(2)(a) In determining the taxable value of the flight equipment of
air carriers pursuant to subsection (1) of this section, the Property Tax
Administrator shall determine the following ratios:

(i) The ratio of the taxable value of all commercial and industrial
depreciable tangible personal property in the state actually subjected to property tax to the market value of all commercial and industrial depreciable tangible personal property in the state; and

(ii) The ratio of the taxable value of flight equipment of air carriers to the market value of flight equipment of air carriers.

(b) If the ratio of the taxable value of flight equipment of air carriers exceeds the ratio of the taxable value of commercial and industrial depreciable tangible personal property by more than five percent, the Property Tax Administrator may adjust the value of such flight equipment of air carriers to the percentage of the taxable commercial and industrial depreciable tangible personal property pursuant to federal law applicable to air carrier transportation property or Nebraska federal court decisions applicable thereto.

(c) For purposes of this subsection, commercial and industrial depreciable tangible personal property means all personal property which is devoted to commercial or industrial use other than flight equipment of air carriers.

(3) The Property Tax Administrator shall, for tax years prior to tax year 2019, multiply the valuation of each air carrier by the compensating exemption factor calculated in section 77-1238.

Sec. 16. Section 77-2602, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-2602 (1) Every stamping agent engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On each package of cigarettes containing not more than twenty cigarettes, one dollar and sixty-four cents per package; and on packages containing more than twenty cigarettes, the same tax as provided on packages containing not more than twenty cigarettes for the first twenty
cigarettes in each package and a tax of one-twentieth of the tax on the first twenty cigarettes on each cigarette in excess of twenty cigarettes in each package.

(2) Beginning October 1, 2004, the State Treasurer shall place the equivalent of forty-nine cents of such tax in the General Fund. The State Treasurer shall reduce the amount placed in the General Fund under this subsection by the amount prescribed in subdivision (3)(d) of this section. For purposes of this section, the equivalent of a specified number of cents of the tax shall mean that portion of the proceeds of the tax equal to the specified number divided by the tax rate per package of cigarettes containing not more than twenty cigarettes.

(3) The State Treasurer shall distribute the remaining proceeds of such tax in the following order:

(a) First, beginning July 1, 1980, the State Treasurer shall place the equivalent of one cent of such tax in the Nebraska Outdoor Recreation Development Cash Fund. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(b) Second, beginning July 1, 1993, the State Treasurer shall place the equivalent of three cents of such tax in the Health and Human Services Cash Fund to carry out sections 81-637 to 81-640. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(c) Third, beginning October 1, 2002, and continuing until all the purposes of the Deferred Building Renewal Act have been fulfilled, the State Treasurer shall place the equivalent of seven cents of such tax in
the Building Renewal Allocation Fund. The distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(d) Fourth, until July 1, 2009, the State Treasurer shall place in the Municipal Infrastructure Redevelopment Fund the sum of five hundred twenty thousand dollars each fiscal year to carry out the Municipal Infrastructure Redevelopment Fund Act. The Legislature shall appropriate the sum of five hundred twenty thousand dollars each year for fiscal year 2003-04 through fiscal year 2008-09;

(e) Fifth, beginning July 1, 2001, and continuing until June 30, 2008, the State Treasurer shall place the equivalent of two cents of such tax in the Information Technology Infrastructure Fund. The distribution under this subdivision shall not be less than two million fifty thousand dollars. Any money needed to increase the amount distributed under this subdivision to two million fifty thousand dollars shall reduce the distribution to the General Fund;

(f) Sixth, beginning July 1, 2001, and continuing until June 30, 2016, the State Treasurer shall place one million dollars each fiscal year in the City of the Primary Class Development Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the one million dollars to be distributed pursuant to this subdivision;

(g) Seventh, beginning July 1, 2001, and continuing until June 30, 2016, the State Treasurer shall place one million five hundred thousand dollars each fiscal year in the City of the Metropolitan Class Development Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the one million
five hundred thousand dollars to be distributed pursuant to this
subdivision;

(h) Eighth, beginning July 1, 2008, and continuing until June 30, 2009, the State Treasurer shall place the equivalent of two million fifty thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. Beginning July 1, 2009, and continuing until June 30, 2016, the State Treasurer shall place the equivalent of two million five hundred seventy thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. Beginning July 1, 2016, and every fiscal year thereafter, the State Treasurer shall place the equivalent of three million eight hundred twenty thousand dollars of such tax in the Nebraska Public Safety Communication System Cash Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the distribution pursuant to this subdivision; and

(i) Ninth, beginning July 1, 2016, and every fiscal year thereafter, the State Treasurer shall place the equivalent of one million two hundred fifty thousand dollars of such tax in the Nebraska Health Care Cash Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the distribution pursuant to this subdivision; and

(j) Tenth, beginning July 1, 2019, and every fiscal year thereafter, the State Treasurer shall place the equivalent of one dollar of such tax in the Property Tax Credit Cash Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by the amount required to fulfill the distribution pursuant to this subdivision.

(4) If, after distributing the proceeds of such tax pursuant to subsections (2) and (3) of this section, any proceeds of such tax remain, the State Treasurer shall place such remainder in the Nebraska Capital
The Legislature hereby finds and determines that the projects funded from the Municipal Infrastructure Redevelopment Fund and the Building Renewal Allocation Fund are of critical importance to the State of Nebraska. It is the intent of the Legislature that the allocations and appropriations made by the Legislature to such funds or, in the case of allocations for the Municipal Infrastructure Redevelopment Fund, to the particular municipality's account not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid or, in the case of the Municipal Infrastructure Redevelopment Fund, the earlier of such date or July 1, 2009, and that until such time any reductions in the cigarette tax rate made by the Legislature shall be simultaneously accompanied by equivalent reductions in the amount dedicated to the General Fund from cigarette tax revenue. Any provision made by the Legislature for distribution of the proceeds of the cigarette tax for projects or programs other than those to (a) the General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the Health and Human Services Cash Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the Building Renewal Allocation Fund, (f) the Information Technology Infrastructure Fund, (g) the City of the Primary Class Development Fund, (h) the City of the Metropolitan Class Development Fund, (i) the Nebraska Public Safety Communication System Cash Fund, and (j) the Nebraska Health Care Cash Fund, and (k) the Property Tax Credit Cash Fund shall not be made a higher priority than or an equal priority to any of the programs or projects specified in subdivisions (a) through (k) of this subsection.

Sec. 17. Section 77-2701, Revised Statutes Supplement, 2017, is amended to read:

77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235, 77-27,236, and 77-27,238 and section 18 of this act shall be known and
may be cited as the Nebraska Revenue Act of 1967.

Sec. 18. (1) For taxable years beginning or deemed to begin on or after January 1, 2019, under the Internal Revenue Code of 1986, as amended, there is hereby imposed a surtax upon any individual who:

(a) Is subject to state income taxes under the Nebraska Revenue Act of 1967; and

(b) Has federal adjusted gross income for the taxable year of five hundred thousand dollars or more.

(2) The surtax shall be in addition to any other taxes owed under the Nebraska Revenue Act of 1967 and shall be equal to the individual’s state income tax liability multiplied by a rate of:

(a) Two and one-half percent if the individual's federal adjusted gross income is at least five hundred thousand dollars but less than one million dollars; or

(b) Five percent if the individual's federal adjusted gross income is at least one million dollars.

(3) The surtax shall be collected when the individual files his or her individual income tax return. The Tax Commissioner shall adjust the income tax forms to include the calculation of the surtax.

(4) The Tax Commissioner may adopt and promulgate rules and regulations to carry out this section.

Sec. 19. Section 77-2701.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-2701.02 Pursuant to section 77-2715.01:

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

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

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

(4) Commencing on the start of the first calendar quarter after July 20, 2002, and until October 1, 2018, the rate of the sales tax levied pursuant to section 77-2703 shall be five and one-half percent; and

(5) Commencing October 1, 2018, the rate of the sales tax levied pursuant to section 77-2703 shall be six percent.

Sec. 20. Section 77-2701.16, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-2701.16 (1) Gross receipts means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers.

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

(a)(i) In the furnishing of telephone communication service, other than mobile telecommunications service as described in section 77-2703.04, the gross income received from furnishing ancillary services, except for conference bridging services, and intrastate telecommunications services, except for value-added, nonvoice data service.

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

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

(c)(i) In the furnishing of gas, sewer, water, and electricity service, other than electricity service to a customer-generator as
defined in section 70-2002, the gross income received from the furnishing
of such services upon billings or statements rendered to consumers for
such utility services.

(ii) In the furnishing of electricity service to a customer-generator as defined in section 70-2002, the net energy use upon billings
or statements rendered to customer-generators for such electricity
service;

(d) In the furnishing of community antenna television service or
satellite service, the gross income received from the furnishing of such
community antenna television service as regulated under sections 18-2201
to 18-2205 or 23-383 to 23-388 or satellite service; and

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

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

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

(b) In the furnishing of videotapes, movie film, satellite
programming, satellite programming service, and satellite television
signal descrambling or decoding devices, the gross income received from
the license, franchise, or other method establishing the charge.

(4) Gross receipts for providing a service means:

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

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

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

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

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

(f) The gross income received for labor for repair or maintenance
    services performed with regard to tangible personal property the sale of
    which would be subject to sales and use taxes, excluding motor vehicles,
    except as otherwise provided in section 77-2704.26 or 77-2704.50;

(g) The gross income received for animal specialty services and pet-
    related services: except (i) veterinary services, (ii) specialty services
    performed on livestock as defined in section 54-183, and (iii) animal
    grooming performed by a licensed veterinarian or a licensed veterinary
    technician in conjunction with medical treatment; and

(h) The gross income received for detective services;

(i) The gross income received for the cleaning of tangible personal
    property;

(j) The gross income received for storage and moving services;

(k) The gross income received for investment advice;

(l) The gross income received for personal care services, including
hair care, massages, nail services, spa services, and tattoo services;

(m) The gross income received for maintenance, painting, repair, and interior decoration services for single-family housing;

(n) The gross income received for limousine, taxi, and other transportation services;

(o) The gross income received for the services of travel agents and tour operators;

(p) The gross income received for lawn care, gardening, and landscaping services;

(q) The gross income received for parking lot services;

(r) The gross income received for swimming pool cleaning and maintenance services;

(s) The gross income received for dating and escort services;

(t) The gross income received for instruction in music, dance, golf, and other recreational activities;

(u) The gross income received for custom meat slaughtering services;

(v) The gross income received for real estate services relating to the sale of single-family housing;

(w) The gross income received for tanning services;

(x) The gross income received for telefloral delivery services; and

(y) The gross income received for the labor of a contractor for any major addition, remodeling, restoration, repair, or renovation of owner-occupied residential housing.

(5) Gross receipts includes the sale of admissions. When an admission to an activity or a membership constituting an admission is combined with the solicitation of a contribution, the portion or the amount charged representing the fair market price of the admission shall be considered a retail sale subject to the tax imposed by section 77-2703. The organization conducting the activity shall determine the amount properly attributable to the purchase of the privilege, benefit, or other consideration in advance, and such amount shall be clearly
indicated on any ticket, receipt, or other evidence issued in connection with the payment.

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

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

(8) Gross receipts includes the sale of and recharge of prepaid calling service and prepaid wireless calling service.

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

(10) Gross receipts does not include:

(a) The amount of any rebate granted by a motor vehicle or motorboat manufacturer or dealer at the time of sale of the motor vehicle or motorboat, which rebate functions as a discount from the sales price of the motor vehicle or motorboat; or

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

Sec. 21. Section 77-2701.32, Reissue Revised Statutes of Nebraska, is amended to read:

77-2701.32 (1) Retailer means any seller.

(2) To facilitate the proper administration of the Nebraska Revenue Act of 1967, the following persons have the duties and responsibilities of sellers for the purposes of sales and use taxes:

(a) Any person in the business of making sales subject to tax under
section 77-2703 at auction of property owned by the person or others;

(b) Any person collecting the proceeds of the auction, other than the owner of the property, together with his or her principal, if any, when the person collecting the proceeds of the auction is not the auctioneer or an agent or employee of the auctioneer. The seller does not include the auctioneer in such case;

(c) Every person who has elected to be considered a retailer pursuant to subdivision (1) of section 77-2701.10;

(d) Every person operating, organizing, or promoting a flea market, craft show, fair, or similar event; and

(e) Every person engaged in the business of providing any service defined in subsection (4) of section 77-2701.16.

(3) For the proper administration of the Nebraska Revenue Act of 1967, the following persons do not have the duties and responsibilities of a seller for purposes of sales and use taxes:

(a) Any person who leases or rents films when an admission tax is charged under the Nebraska Revenue Act of 1967;

(b) Any person who leases or rents railroad rolling stock interchanged pursuant to the provisions of the federal Interstate Commerce Act;

(c) Any person engaged in the business of furnishing rooms in a facility licensed under the Health Care Facility Licensure Act in which rooms, lodgings, or accommodations are regularly furnished for a consideration or a facility operated by an educational institution established under Chapter 79 or Chapter 85 in which rooms are regularly used to house students for a consideration for periods in excess of thirty days; or

(d) Any person making sales at a flea market, craft show, fair, or similar event when such person does not have a sales tax permit and has arranged to pay sales taxes collected to the person operating, organizing, or promoting such event.
(4)(a) This subsection becomes operative on the later of July 1, 2018, or the first day of the first calendar quarter after a controlling court decision or federal legislation abrogates the physical presence requirement of Quill Corp. v. North Dakota, 504 U.S. 298 (1992).

(b) A person who lacks a physical presence in this state and who makes retail sales of property to purchasers in this state shall have the duties and responsibilities of a seller for the purposes of sales and use taxes if such person meets either of the following criteria in the previous or current calendar year:

   (i) The person made retail sales of property to purchasers in this state totaling one hundred thousand dollars or more; or

   (ii) The person made retail sales of property to purchasers in this state in two hundred or more separate transactions.

Sec. 22. Section 77-2701.35, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-2701.35 (1) Sales price applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

   (a) The seller's cost of the property sold;

   (b) The cost of materials used, the cost of labor or service, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

   (c) Charges by the seller for any services necessary to complete the sale;

   (d) Delivery charges; and

   (e) Installation charges.

(2) Sales price includes consideration received by the seller from third parties if:

   (a) The seller actually receives consideration from a party other
than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(b) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(c) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(d) One of the following criteria is met:

(i) The purchaser presents a coupon, certificate, or other documentation to the seller to claim a price reduction or discount when the coupon, certificate, or documentation is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate, or documentation is presented;

(ii) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group; or

(iii) The price reduction or discount is identified as a third-party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

(3) Sales price does not include:

(a) Any discounts, including cash, terms, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(b) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(c) Any taxes legally imposed directly on the consumer that are
separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(d) United States postage charges on direct mail that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; and

(e) Credit for any trade-in as follows: (i) The value of property taken by a seller in trade as all or a part of the consideration for a sale of property of any kind or nature, excluding motor vehicles, motorboats, all-terrain vehicles, and utility-type vehicles; or (ii) the value of a motor vehicle, motorboat, all-terrain vehicle, or utility-type vehicle taken by any person in trade as all or a part of the consideration for a sale of another motor vehicle, motorboat, all-terrain vehicle, or utility-type vehicle.

Sec. 23. Section 77-2703, Revised Statutes Supplement, 2017, is amended to read:

77-2703 (1) There is hereby imposed a tax at the rate provided in section 77-2701.02 upon the gross receipts from all sales of tangible personal property sold at retail in this state; the gross receipts of every person engaged as a public utility, as a community antenna television service operator, or as a satellite service operator, any person involved in the connecting and installing of the services defined in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every person engaged as a retailer of intellectual or entertainment properties referred to in subsection (3) of section 77-2701.16; the gross receipts from the sale of admissions in this state; the gross receipts from the sale of warranties, guarantees, service agreements, or maintenance agreements when the items covered are subject to tax under this section; beginning January 1, 2008, the gross receipts from the sale of bundled transactions when one or more of the products included in the bundle are taxable; the gross receipts from the provision of services defined in subsection (4) of section 77-2701.16; and the gross receipts from the
sale of products delivered electronically as described in subsection (9) of section 77-2701.16. Except as provided in section 77-2701.03, when there is a sale, the tax shall be imposed at the rate in effect at the time the gross receipts are realized under the accounting basis used by the retailer to maintain his or her books and records.

(a) The tax imposed by this section shall be collected by the retailer from the consumer. It shall constitute a part of the purchase price and until collected shall be a debt from the consumer to the retailer and shall be recoverable at law in the same manner as other debts. The tax required to be collected by the retailer from the consumer constitutes a debt owed by the retailer to this state.

(b) It is unlawful for any retailer to advertise, hold out, or state to the public or to any customer, directly or indirectly, that the tax or part thereof will be assumed or absorbed by the retailer, that it will not be added to the selling, renting, or leasing price of the property sold, rented, or leased, or that, if added, it or any part thereof will be refunded. The provisions of this subdivision shall not apply to a public utility.

(c) The tax required to be collected by the retailer from the purchaser, unless otherwise provided by statute or by rule and regulation of the Tax Commissioner, shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sales, rentals, or leases.

(d) For the purpose of more efficiently securing the payment, collection, and accounting for the sales tax and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to provide a schedule or schedules of the amounts to be collected from the consumer or user to effectuate the computation and collection of the tax imposed by the Nebraska Revenue Act of 1967. Such schedule or schedules shall provide that the tax shall be collected from the consumer or user uniformly on sales according to brackets based on
sales prices of the item or items. Retailers may compute the tax due on
any transaction on an item or an invoice basis. The rounding rule
provided in section 77-3,117 applies.

(e) The use of tokens or stamps for the purpose of collecting or
enforcing the collection of the taxes imposed in the Nebraska Revenue Act
of 1967 or for any other purpose in connection with such taxes is
prohibited.

(f) For the purpose of the proper administration of the provisions
of the Nebraska Revenue Act of 1967 and to prevent evasion of the retail
sales tax, it shall be presumed that all gross receipts are subject to
the tax until the contrary is established. The burden of proving that a
sale of property is not a sale at retail is upon the person who makes the
sale unless he or she takes from the purchaser (i) a resale certificate
to the effect that the property is purchased for the purpose of
reselling, leasing, or renting it, (ii) an exemption certificate pursuant
to subsection (7) of section 77-2705, or (iii) a direct payment permit
pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale
certificate, exemption certificate, or direct payment permit shall be
conclusive proof for the seller that the sale was made for resale or was
exempt or that the tax will be paid directly to the state.

(g) In the rental or lease of automobiles, trucks, trailers,
semitrailers, and truck-tractors as defined in the Motor Vehicle
Registration Act, the tax shall be collected by the lessor on the rental
or lease price, except as otherwise provided within this section.

(h) In the rental or lease of automobiles, trucks, trailers,
semitrailers, and truck-tractors as defined in the act, for periods of
one year or more, the lessor may elect not to collect and remit the sales
tax on the gross receipts and instead pay a sales tax on the cost of such
vehicle. If such election is made, it shall be made pursuant to the
following conditions:

(i) Notice of the desire to make such election shall be filed with
the Tax Commissioner and shall not become effective until the Tax
Commissioner is satisfied that the taxpayer has complied with all
conditions of this subsection and all rules and regulations of the Tax
Commissioner;

(ii) Such election when made shall continue in force and effect for
a period of not less than two years and thereafter until such time as the
lessor elects to terminate the election;

(iii) When such election is made, it shall apply to all vehicles of
the lessor rented or leased for periods of one year or more except
vehicles to be leased to common or contract carriers who provide to the
lessor a valid common or contract carrier exemption certificate. If the
lessor rents or leases other vehicles for periods of less than one year,
such lessor shall maintain his or her books and records and his or her
accounting procedure as the Tax Commissioner prescribes; and

(iv) The Tax Commissioner by rule and regulation shall prescribe the
contents and form of the notice of election, a procedure for the
determination of the tax base of vehicles which are under an existing
lease at the time such election becomes effective, the method and manner
for terminating such election, and such other rules and regulations as
may be necessary for the proper administration of this subdivision.

(i) The tax imposed by this section on the sales of motor vehicles,
semitrailers, and trailers as defined in sections 60-339, 60-348, and
60-354 shall be the liability of the purchaser and, with the exception of
motor vehicles, semitrailers, and trailers registered pursuant to section
60-3,198, the tax shall be collected by the county treasurer as provided
in the Motor Vehicle Registration Act or by an approved licensed dealer
participating in the electronic dealer services system pursuant to
section 60-1507 at the time the purchaser makes application for the
registration of the motor vehicle, semitrailer, or trailer for operation
upon the highways of this state. The tax imposed by this section on motor
vehicles, semitrailers, and trailers registered pursuant to section
60-3,198 shall be collected by the Department of Motor Vehicles at the time the purchaser makes application for the registration of the motor vehicle, semitrailer, or trailer for operation upon the highways of this state. At the time of the sale of any motor vehicle, semitrailer, or trailer, the seller shall (i) state on the sales invoice the dollar amount of the tax imposed under this section and (ii) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars. If the purchaser does not register such motor vehicle, semitrailer, or trailer for operation on the highways of this state within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer or the Department of Motor Vehicles. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer or Department of Motor Vehicles shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer or Department of Motor Vehicles shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee.
permitted to be deducted by any retailer collecting the sales tax. The
Department of Motor Vehicles shall deduct, withhold, and deposit in the
Motor Carrier Division Cash Fund the collection fee permitted to be
deducted by any retailer collecting the sales tax. The collection fee
shall be forfeited if the county treasurer or Department of Motor
Vehicles violates any rule or regulation pertaining to the collection of
the use tax.

(j)(i) The tax imposed by this section on the sale of a motorboat as
defined in section 37-1204 shall be the liability of the purchaser. The
tax shall be collected by the county treasurer at the time the purchaser
makes application for the registration of the motorboat. At the time of
the sale of a motorboat, the seller shall (A) state on the sales invoice
the dollar amount of the tax imposed under this section and (B) furnish
to the purchaser a certified statement of the transaction, in such form
as the Tax Commissioner prescribes, setting forth as a minimum the total
sales price, the allowance for any trade-in, and the difference between
the two. The sales tax due shall be computed on the difference between
the total sales price and the allowance for any trade-in as disclosed by
such certified statement. Any seller who willfully understates the amount
upon which the sales tax is due shall be subject to a penalty of one
thousand dollars. A copy of such certified statement shall also be
furnished to the Tax Commissioner. Any seller who fails or refuses to
furnish such certified statement shall be guilty of a misdemeanor and
shall, upon conviction thereof, be punished by a fine of not less than
twenty-five dollars nor more than one hundred dollars. If the purchaser
does not register such motorboat within thirty days of the purchase
thereof, the tax imposed by this section shall immediately thereafter be
paid by the purchaser to the county treasurer. If the tax is not paid on
or before the thirtieth day after its purchase, the county treasurer
shall also collect from the purchaser interest from the thirtieth day
through the date of payment and sales tax penalties as provided in the
Nebraska Revenue Act of 1967. The county treasurer shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(ii) In the rental or lease of motorboats, the tax shall be collected by the lessor on the rental or lease price.

(k)(i) The tax imposed by this section on the sale of an all-terrain vehicle as defined in section 60-103 or a utility-type vehicle as defined in section 60-135.01 shall be the liability of the purchaser. The tax shall be collected by the county treasurer or by an approved licensed dealer participating in the electronic dealer services system pursuant to section 60-1507 at the time the purchaser makes application for the certificate of title for the all-terrain vehicle or utility-type vehicle. At the time of the sale of an all-terrain vehicle or a utility-type vehicle, the seller shall (A) state on the sales invoice the dollar amount of the tax imposed under this section and (B) furnish to the purchaser a certified statement of the transaction, in such form as the Tax Commissioner prescribes, setting forth as a minimum the total sales price, the allowance for any trade-in, and the difference between the two. The sales tax due shall be computed on the difference between the total sales price and the allowance for any trade-in as disclosed by such certified statement. Any seller who willfully understates the amount upon which the sales tax is due shall be subject to a penalty of one thousand dollars. A copy of such certified statement shall also be furnished to the Tax Commissioner. Any seller who fails or refuses to furnish such certified statement shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than twenty-five
dollars nor more than one hundred dollars. If the purchaser does not obtain a certificate of title for such all-terrain vehicle or utility-type vehicle within thirty days of the purchase thereof, the tax imposed by this section shall immediately thereafter be paid by the purchaser to the county treasurer. If the tax is not paid on or before the thirtieth day after its purchase, the county treasurer shall also collect from the purchaser interest from the thirtieth day through the date of payment and sales tax penalties as provided in the Nebraska Revenue Act of 1967. The county treasurer shall report and remit the tax so collected to the Tax Commissioner by the fifteenth day of the following month. The county treasurer shall deduct and withhold for the use of the county general fund, from all amounts required to be collected under this subsection, the collection fee permitted to be deducted by any retailer collecting the sales tax. The collection fee shall be forfeited if the county treasurer violates any rule or regulation pertaining to the collection of the use tax.

(ii) In the rental or lease of an all-terrain vehicle or a utility-type vehicle, the tax shall be collected by the lessor on the rental or lease price.

(iii) County treasurers are appointed as sales and use tax collectors for all sales of all-terrain vehicles or utility-type vehicles made outside of this state to purchasers or users of all-terrain vehicles or utility-type vehicles which are required to have a certificate of title in this state. The county treasurer shall collect the applicable use tax from the purchaser of an all-terrain vehicle or a utility-type vehicle purchased outside of this state at the time application for a certificate of title is made. The full use tax on the purchase price shall be collected by the county treasurer if a sales or occupation tax was not paid by the purchaser in the state of purchase. If a sales or occupation tax was lawfully paid in the state of purchase at a rate less than the tax imposed in this state, use tax must be collected on the
difference as a condition for obtaining a certificate of title in this state.

(1) The Tax Commissioner shall adopt and promulgate necessary rules and regulations for determining the amount subject to the taxes imposed by this section so as to insure that the full amount of any applicable tax is paid in cases in which a sale is made of which a part is subject to the taxes imposed by this section and a part of which is not so subject and a separate accounting is not practical or economical.

(2) A use tax is hereby imposed on the storage, use, or other consumption in this state of property purchased, leased, or rented from any retailer and on any transaction the gross receipts of which are subject to tax under subsection (1) of this section on or after June 1, 1967, for storage, use, or other consumption in this state at the rate set as provided in subsection (1) of this section on the sales price of the property or, in the case of leases or rentals, of the lease or rental prices.

(a) Every person storing, using, or otherwise consuming in this state property purchased from a retailer or leased or rented from another person for such purpose shall be liable for the use tax at the rate in effect when his or her liability for the use tax becomes certain under the accounting basis used to maintain his or her books and records. His or her liability shall not be extinguished until the use tax has been paid to this state, except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the Tax Commissioner, under such rules and regulations as he or she may prescribe, to collect the sales tax and who is, for the purposes of the Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a retailer engaged in business in this state, which receipt is given to the purchaser pursuant to subdivision (b) of this subsection, shall be sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.
(b) Every retailer engaged in business in this state and selling, leasing, or renting property for storage, use, or other consumption in this state shall, at the time of making any sale, collect any tax which may be due from the purchaser and shall give to the purchaser, upon request, a receipt therefor in the manner and form prescribed by the Tax Commissioner.

(c) The Tax Commissioner, in order to facilitate the proper administration of the use tax, may designate such person or persons as he or she may deem necessary to be use tax collectors and delegate to such persons such authority as is necessary to collect any use tax which is due and payable to the State of Nebraska. The Tax Commissioner may require of all persons so designated a surety bond in favor of the State of Nebraska to insure against any misappropriation of state funds so collected. The Tax Commissioner may require any tax official, city, county, or state, to collect the use tax on behalf of the state. All persons designated to or required to collect the use tax shall account for such collections in the manner prescribed by the Tax Commissioner. Nothing in this subdivision shall be so construed as to prevent the Tax Commissioner or his or her employees from collecting any use taxes due and payable to the State of Nebraska.

(d) All persons designated to collect the use tax and all persons required to collect the use tax shall forward the total of such collections to the Tax Commissioner at such time and in such manner as the Tax Commissioner may prescribe. For all use taxes collected prior to October 1, 2002, such collectors of the use tax shall deduct and withhold from the amount of taxes collected two and one-half percent of the first three thousand dollars remitted each month and one-half of one percent of all amounts in excess of three thousand dollars remitted each month as reimbursement for the cost of collecting the tax. For use taxes collected on and after October 1, 2002, such collectors of the use tax shall deduct and withhold from the amount of taxes collected two and one-half percent
of the first three thousand dollars remitted each month as reimbursement
for the cost of collecting the tax. Any such deduction shall be forfeited
to the State of Nebraska if such collector violates any rule, regulation,
or directive of the Tax Commissioner.

(e) For the purpose of the proper administration of the Nebraska
Revenue Act of 1967 and to prevent evasion of the use tax, it shall be
presumed that property sold, leased, or rented by any person for delivery
in this state is sold, leased, or rented for storage, use, or other
consumption in this state until the contrary is established. The burden
of proving the contrary is upon the person who purchases, leases, or
rents the property.

(f) For the purpose of the proper administration of the Nebraska
Revenue Act of 1967 and to prevent evasion of the use tax, for the sale
of property to an advertising agency which purchases the property as an
agent for a disclosed or undisclosed principal, the advertising agency is
and remains liable for the sales and use tax on the purchase the same as
if the principal had made the purchase directly.

Sec. 24. Section 77-2704.10, Revised Statutes Supplement, 2017, is
amended to read:

77-2704.10 Sales and use taxes shall not be imposed on the gross
receipts from the sale, lease, or rental of and the storage, use, or
other consumption in this state of:

(1) Prepared food and food and food ingredients served by public or
private schools, school districts, student organizations, or parent-
teacher associations pursuant to an agreement with the proper school
authorities, in an elementary or secondary school or at any institution
of higher education, public or private, during the regular school day or
at an approved function of any such school or institution. This exemption
does not apply to sales by an institution of higher education at any
facility or function which is open to the general public;

(2) Prepared food and food and food ingredients sold by a church
at a function of such church;

(2) (3) Prepared food and food and food ingredients served to patients and inmates of hospitals and other institutions licensed by the state for the care of human beings; and

(4) Fees and admissions charged for political events by ballot question committees, candidate committees, independent committees, and political party committees as defined in the Nebraska Political Accountability and Disclosure Act;

(3) (5) Prepared food and food and food ingredients sold to the elderly, handicapped, or recipients of Supplemental Security Income by an organization that actually accepts electronic benefits transfer under regulations issued by the United States Department of Agriculture although it is not necessary for the purchaser to use electronic benefits transfer to pay for the prepared food and food and food ingredients.

(6) Fees and admissions charged by a public or private elementary or secondary school and fees and admissions charged by a school district, student organization, or parent-teacher association, pursuant to an agreement with the proper school authorities, in a public or private elementary or secondary school during the regular school day or at an approved function of any such school;

(7) Fees and admissions charged for participants in any activity provided by a nonprofit organization that is exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which organization conducts statewide sport events with multiple sports for both adults and youth; and

(8) Fees and admissions charged for participants in any activity provided by a nonprofit organization that is exempt from income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which organization is affiliated with a national organization, primarily dedicated to youth development and healthy living, and offers sports instruction and sports leagues or sports events in multiple sports.
Sec. 25. Section 77-2704.24, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-2704.24 (1) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of food or food ingredients except for prepared food and food sold through vending machines.

(2) For purposes of this section:

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

(b) Dietary supplement means any product, other than tobacco, intended to supplement the diet that contains one or more of the following dietary ingredients: (i) A vitamin, (ii) a mineral, (iii) an herb or other botanical, (iv) an amino acid, (v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake, or (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredients described in subdivisions (2)(b)(i) through (v) of this section; that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form or, if not intended for ingestion in such a form, is not presented as conventional food and is not represented for use as a sole item of a meal or of the diet; and that is required to be labeled as a dietary supplement, identifiable by the supplemental facts box found on the label and as required pursuant to 21 C.F.R. 101.36, as such regulation existed on January 1, 2003;

(c) Food and food ingredients means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients does not include alcoholic beverages, dietary supplements, tobacco, soft drinks, candy, or bottled water;

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

(e) Prepared food means:

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

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

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

(B) Eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, part 401.11 of its Food Code, as it existed on January 1, 2003, so as to prevent food borne illnesses;

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

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

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

(F) Food that ordinarily requires additional cooking to finish the product to its desired final condition; and

(f) Tobacco means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

Sec. 26. Section 77-2715, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-2715 (1) A tax is hereby imposed for each taxable year on the entire income of every resident individual and on the income of every nonresident individual and partial-year resident individual which is derived from sources within this state, except that any individual who
has additions to adjusted gross income pursuant to section 77-2716 of
less than five thousand dollars shall not have an individual income tax
liability after nonrefundable credits under the Nebraska Revenue Act of
1967 that exceeds his or her individual income tax liability before
credits under the Internal Revenue Code of 1986.

(2)(a) For taxable years beginning or deemed to begin before January
1, 2014, the tax for each resident individual shall be a percentage of
such individual's federal adjusted gross income as modified in sections
77-2716 and 77-2716.01, plus a percentage of the federal alternative
minimum tax and the federal tax on premature or lump-sum distributions
from qualified retirement plans. The additional taxes shall be recomputed
by (i) substituting Nebraska taxable income for federal taxable income,
(ii) calculating what the federal alternative minimum tax would be on
Nebraska taxable income and adjusting such calculations for any items
which are reflected differently in the determination of federal taxable
income, and (iii) applying Nebraska rates to the result. The federal
credit for prior year minimum tax, after the recomputations required by
the act, shall be allowed as a reduction in the income tax due.

(b) For taxable years beginning or deemed to begin on or after
January 1, 2014, and before January 1, 2019, the tax for each resident
individual shall be a percentage of such individual's federal adjusted
gross income as modified in sections 77-2716 and 77-2716.01, plus a
percentage of the federal tax on premature or lump-sum distributions from
qualified retirement plans. The additional taxes shall be recomputed by
substituting Nebraska taxable income for federal taxable income and
applying Nebraska rates to the result.

(c) For taxable years beginning or deemed to begin on or after
January 1, 2019, the tax for each resident individual shall be a
percentage of such individual's federal adjusted gross income as modified
in sections 77-2716 and 77-2716.01, plus a percentage of the federal
alternative minimum tax and the federal tax on premature or lump-sum
distributions from qualified retirement plans. The additional taxes shall be recomputed by (i) substituting Nebraska taxable income for federal taxable income, (ii) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the determination of federal taxable income, and (iii) applying Nebraska rates to the result. The federal credit for prior year minimum tax, after the recomputations required by the act, shall be allowed as a reduction in the income tax due.

(3) The tax for each nonresident individual and partial-year resident individual shall be the portion of the tax imposed on resident individuals which is attributable to the income derived from sources within this state. The tax which is attributable to income derived from sources within this state shall be determined by subtracting from the liability to this state for a resident individual with the same total income the credit for personal exemptions and multiplying the result by a fraction, the numerator of which is the nonresident individual's or partial-year resident individual's Nebraska adjusted gross income as determined by section 77-2733 or 77-2733.01 and the denominator of which is his or her total federal adjusted gross income, after first adjusting each by the amounts provided in section 77-2716. If this determination attributes more or less tax than is reasonably attributable to income derived from sources within this state, the taxpayer may petition for or the Tax Commissioner may require the employment of any other method to attribute an amount of tax which is reasonable and equitable in the circumstances.

(4) The tax for each estate and trust, other than trusts taxed as corporations under the Internal Revenue Code of 1986, shall be as determined under section 77-2717.

(5) A refund shall be allowed to the extent that the income tax paid by the individual, estate, or trust for the taxable year exceeds the
income tax payable, except that no refund shall be made in any amount less than two dollars.

Sec. 27. Section 77-2716, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-2716 (1) The following adjustments to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be made for interest or dividends received:

(a)(i) There shall be subtracted interest or dividends received by the owner of obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the United States; and

(ii) There shall be subtracted interest received by the owner of obligations of the State of Nebraska or its political subdivisions or authorities which are Build America Bonds to the extent includable in gross income for federal income tax purposes;

(b) There shall be subtracted that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (a) of this subsection as reported to the recipient by the regulated investment company;

(c) There shall be added interest or dividends received by the owner of obligations of the District of Columbia, other states of the United States, or their political subdivisions, authorities, commissions, or instrumentalities to the extent excluded in the computation of gross income for federal income tax purposes except that such interest or dividends shall not be added if received by a corporation which is a regulated investment company;

(d) There shall be added that portion of the total dividends and other income received from a regulated investment company which is
attributable to obligations described in subdivision (c) of this subsection and excluded for federal income tax purposes as reported to the recipient by the regulated investment company; and

(e)(i) Any amount subtracted under this subsection shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this subsection or the investment in the regulated investment company and by any expenses incurred in the production of interest or dividend income described in this subsection to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(ii) Any amount added under this subsection shall be reduced by any expenses incurred in the production of such income to the extent disallowed in the computation of federal taxable income.

(2) There shall be allowed a net operating loss derived from or connected with Nebraska sources computed under rules and regulations adopted and promulgated by the Tax Commissioner consistent, to the extent possible under the Nebraska Revenue Act of 1967, with the laws of the United States. For a resident individual, estate, or trust, the net operating loss computed on the federal income tax return shall be adjusted by the modifications contained in this section. For a nonresident individual, estate, or trust or for a partial-year resident individual, the net operating loss computed on the federal return shall be adjusted by the modifications contained in this section and any carryovers or carrybacks shall be limited to the portion of the loss derived from or connected with Nebraska sources.

(3) There shall be subtracted from federal adjusted gross income for all taxable years beginning on or after January 1, 1987, the amount of any state income tax refund to the extent such refund was deducted under the Internal Revenue Code, was not allowed in the computation of the tax due under the Nebraska Revenue Act of 1967, and is included in federal adjusted gross income.
(4) For taxable years beginning or deemed to begin before January 1, 2019, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income, or, for a fiduciary, federal taxable income shall be modified to exclude the portion of the income or loss received from a small business corporation with an election in effect under subchapter S of the Internal Revenue Code or from a limited liability company organized pursuant to the Nebraska Uniform Limited Liability Company Act that is not derived from or connected with Nebraska sources as determined in section 77-2734.01.

(5) There shall be subtracted from federal adjusted gross income or, for corporations and fiduciaries, federal taxable income dividends received or deemed to be received from corporations which are not subject to the Internal Revenue Code.

(6) There shall be subtracted from federal taxable income a portion of the income earned by a corporation subject to the Internal Revenue Code of 1986 that is actually taxed by a foreign country or one of its political subdivisions at a rate in excess of the maximum federal tax rate for corporations. The taxpayer may make the computation for each foreign country or for groups of foreign countries. The portion of the taxes that may be deducted shall be computed in the following manner:

(a) The amount of federal taxable income from operations within a foreign taxing jurisdiction shall be reduced by the amount of taxes actually paid to the foreign jurisdiction that are not deductible solely because the foreign tax credit was elected on the federal income tax return;

(b) The amount of after-tax income shall be divided by one minus the maximum tax rate for corporations in the Internal Revenue Code; and

(c) The result of the calculation in subdivision (b) of this subsection shall be subtracted from the amount of federal taxable income used in subdivision (a) of this subsection. The result of such calculation, if greater than zero, shall be subtracted from federal income tax liability.
taxable income.

(7) Federal adjusted gross income shall be modified to exclude any amount repaid by the taxpayer for which a reduction in federal tax is allowed under section 1341(a)(5) of the Internal Revenue Code.

(8)(a) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced, to the extent included, by income from interest, earnings, and state contributions received from the Nebraska educational savings plan trust created in sections 85-1801 to 85-1814 and any account established under the achieving a better life experience program as provided in sections 77-1401 to 77-1409.

(b) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced by any contributions as a participant in the Nebraska educational savings plan trust or contributions to an account established under the achieving a better life experience program made for the benefit of a beneficiary as provided in sections 77-1401 to 77-1409, to the extent not deducted for federal income tax purposes, but not to exceed five thousand dollars per married filing separate return or ten thousand dollars for any other return. With respect to a qualified rollover within the meaning of section 529 of the Internal Revenue Code from another state's plan, any interest, earnings, and state contributions received from the other state's educational savings plan which is qualified under section 529 of the code shall qualify for the reduction provided in this subdivision. For contributions by a custodian of a custodial account including rollovers from another custodial account, the reduction shall only apply to funds added to the custodial account after January 1, 2014.

(c) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by:

(i) The amount resulting from the cancellation of a participation agreement refunded to the taxpayer as a participant in the Nebraska
educational savings plan trust to the extent previously deducted under subdivision (8)(b) of this section; and

(ii) The amount of any withdrawals by the owner of an account established under the achieving a better life experience program as provided in sections 77-1401 to 77-1409 for nonqualified expenses to the extent previously deducted under subdivision (8)(b) of this section.

(9)(a) For income tax returns filed after September 10, 2001, for taxable years beginning or deemed to begin before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by eighty-five percent of any amount of any federal bonus depreciation received under the federal Job Creation and Worker Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003, under section 168(k) or section 1400L of the Internal Revenue Code of 1986, as amended, for assets placed in service after September 10, 2001, and before December 31, 2005.

(b) For a partnership, limited liability company, cooperative, including any cooperative exempt from income taxes under section 521 of the Internal Revenue Code of 1986, as amended, limited cooperative association, subchapter S corporation, or joint venture, the increase shall be distributed to the partners, members, shareholders, patrons, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities.

(c) For a corporation with a unitary business having activity both inside and outside the state, the increase shall be apportioned to Nebraska in the same manner as income is apportioned to the state by section 77-2734.05.

(d) The amount of bonus depreciation added to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income by this subsection shall be subtracted in a later taxable year. Twenty percent of the total amount of bonus depreciation added back by this
subsection for tax years beginning or deemed to begin before January 1, 2003, under the Internal Revenue Code of 1986, as amended, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2005, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years. Twenty percent of the total amount of bonus depreciation added back by this subsection for tax years beginning or deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years.

(10) For taxable years beginning or deemed to begin on or after January 1, 2003, and before January 1, 2006, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by the amount of any capital investment that is expensed under section 179 of the Internal Revenue Code of 1986, as amended, that is in excess of twenty-five thousand dollars that is allowed under the federal Jobs and Growth Tax Act of 2003. Twenty percent of the total amount of expensing added back by this subsection for tax years beginning or deemed to begin on or after January 1, 2003, may be subtracted in the first taxable year beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended, and twenty percent in each of the next four following taxable years.

(11)(a) For taxable years beginning or deemed to begin before January 1, 2018, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by contributions, up to two thousand dollars per married filing jointly return or one thousand dollars for any other return, and any investment earnings made as a participant in the Nebraska long-term care savings plan under the Long-Term Care Savings Plan Act, to the extent not deducted for federal income
(b) For taxable years beginning or deemed to begin before January 1, 2018, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be increased by the withdrawals made as a participant in the Nebraska long-term care savings plan under the act by a person who is not a qualified individual or for any reason other than transfer of funds to a spouse, long-term care expenses, long-term care insurance premiums, or death of the participant, including withdrawals made by reason of cancellation of the participation agreement, to the extent previously deducted as a contribution or as investment earnings.

(12) There shall be added to federal adjusted gross income for individuals, estates, and trusts any amount taken as a credit for franchise tax paid by a financial institution under sections 77-3801 to 77-3807 as allowed by subsection (5) of section 77-2715.07.

(13) For taxable years beginning or deemed to begin on or after January 1, 2015, under the Internal Revenue Code of 1986, as amended, federal adjusted gross income shall be reduced by the amount received as benefits under the federal Social Security Act which are included in the federal adjusted gross income if:

(a) For taxpayers filing a married filing joint return, federal adjusted gross income is fifty-eight thousand dollars or less; or

(b) For taxpayers filing any other return, federal adjusted gross income is forty-three thousand dollars or less.

(14) For taxable years beginning or deemed to begin on or after January 1, 2015, under the Internal Revenue Code of 1986, as amended, an individual may make a one-time election within two calendar years after the date of his or her retirement from the military to exclude income received as a military retirement benefit by the individual to the extent included in federal adjusted gross income and as provided in this subsection. The individual may elect to exclude forty percent of his or her military retirement benefit income for seven consecutive taxable
years beginning with the year in which the election is made or may elect to exclude fifteen percent of his or her military retirement benefit income for all taxable years beginning with the year in which he or she turns sixty-seven years of age. For purposes of this subsection, military retirement benefit means retirement benefits that are periodic payments attributable to service in the uniformed services of the United States for personal services performed by an individual prior to his or her retirement.

Sec. 28. Section 77-2717, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-2717 (1)(a)(i) For taxable years beginning or deemed to begin before January 1, 2014, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal alternative minimum tax and the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by (A) substituting Nebraska taxable income for federal taxable income, (B) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the determination of federal taxable income, and (C) applying Nebraska rates to the result. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the New Markets Job Growth Investment Act.
For taxable years beginning or deemed to begin on or after January 1, 2014, and before January 1, 2019, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by substituting Nebraska taxable income for federal taxable income and applying Nebraska rates to the result. The credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

For taxable years beginning or deemed to begin on or after January 1, 2019, the tax imposed on all resident estates and trusts shall be a percentage of the federal taxable income of such estates and trusts as modified in section 77-2716, plus a percentage of the federal alternative minimum tax and the federal tax on premature or lump-sum distributions from qualified retirement plans. The additional taxes shall be recomputed by (A) substituting Nebraska taxable income for federal taxable income, (B) calculating what the federal alternative minimum tax would be on Nebraska taxable income and adjusting such calculations for any items which are reflected differently in the determination of federal taxable income, and (C) applying Nebraska rates to the result. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, shall be allowed as a
reduction in the income tax due. A refundable income tax credit shall be allowed for all resident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act. A nonrefundable income tax credit shall be allowed for all resident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

(b) The tax imposed on all nonresident estates and trusts shall be the portion of the tax imposed on resident estates and trusts which is attributable to the income derived from sources within this state. The tax which is attributable to income derived from sources within this state shall be determined by multiplying the liability to this state for a resident estate or trust with the same total income by a fraction, the numerator of which is the nonresident estate's or trust's Nebraska income as determined by sections 77-2724 and 77-2725 and the denominator of which is its total federal income after first adjusting each by the amounts provided in section 77-2716. The federal credit for prior year minimum tax, after the recomputations required by the Nebraska Revenue Act of 1967, reduced by the percentage of the total income which is attributable to income from sources outside this state, and the credits provided in the Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska Advantage Research and Development Act shall be allowed as a reduction in the income tax due. A refundable income tax credit shall be allowed for all nonresident estates and trusts under the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska Advantage Research and Development Act. A nonrefundable income tax credit shall be allowed for all nonresident estates and trusts as provided in the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.
(2) In all instances wherein a fiduciary income tax return is required under the provisions of the Internal Revenue Code, a Nebraska fiduciary return shall be filed, except that a fiduciary return shall not be required to be filed regarding a simple trust if all of the trust's beneficiaries are residents of the State of Nebraska, all of the trust's income is derived from sources in this state, and the trust has no federal tax liability. The fiduciary shall be responsible for making the return for the estate or trust for which he or she acts, whether the income be taxable to the estate or trust or to the beneficiaries thereof. The fiduciary shall include in the return a statement of each beneficiary's distributive share of net income when such income is taxable to such beneficiaries.

(3) The beneficiaries of such estate or trust who are residents of this state shall include in their income their proportionate share of such estate's or trust's federal income and shall reduce their Nebraska tax liability by their proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238. There shall be allowed to a beneficiary a refundable income tax credit under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended.

(4) If any beneficiary of such estate or trust is a nonresident during any part of the estate's or trust's taxable year, he or she shall file a Nebraska income tax return which shall include (a) in Nebraska adjusted gross income that portion of the estate's or trust's Nebraska income, as determined under sections 77-2724 and 77-2725, allocable to his or her interest in the estate or trust and (b) a reduction of the
Nebraska tax liability by his or her proportionate share of the credits as provided in the Angel Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research and Development Act, the Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets Job Growth Investment Act, the School Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238 and shall execute and forward to the fiduciary, on or before the original due date of the Nebraska fiduciary return, an agreement which states that he or she will file a Nebraska income tax return and pay income tax on all income derived from or connected with sources in this state, and such agreement shall be attached to the Nebraska fiduciary return for such taxable year.

(5) In the absence of the nonresident beneficiary's executed agreement being attached to the Nebraska fiduciary return, the estate or trust shall remit a portion of such beneficiary's income which was derived from or attributable to Nebraska sources with its Nebraska return for the taxable year. For taxable years beginning or deemed to begin before January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. For taxable years beginning or deemed to begin on or after January 1, 2013, the amount of remittance, in such instance, shall be the highest individual income tax rate determined under section 77-2715.03 multiplied by the nonresident beneficiary's share of the estate or trust income which was derived from or attributable to sources within this state. The amount remitted shall be allowed as a credit against the Nebraska income tax liability of the beneficiary.

(6) The Tax Commissioner may allow a nonresident beneficiary to not file a Nebraska income tax return if the nonresident beneficiary's only source of Nebraska income was his or her share of the estate's or trust's
income which was derived from or attributable to sources within this
state, the nonresident did not file an agreement to file a Nebraska
income tax return, and the estate or trust has remitted the amount
required by subsection (5) of this section on behalf of such nonresident
beneficiary. The amount remitted shall be retained in satisfaction of the
Nebraska income tax liability of the nonresident beneficiary.

(7) For purposes of this section, unless the context otherwise
requires, simple trust shall mean any trust instrument which (a) requires
that all income shall be distributed currently to the beneficiaries, (b)
does not allow amounts to be paid, permanently set aside, or used in the
tax year for charitable purposes, and (c) does not distribute amounts
allocated in the corpus of the trust. Any trust which does not qualify as
a simple trust shall be deemed a complex trust.

(8) For purposes of this section, any beneficiary of an estate or
trust that is a grantor trust of a nonresident shall be disregarded and
this section shall apply as though the nonresident grantor was the
beneficiary.

Sec. 29. Section 77-2734.01, Revised Statutes Cumulative Supplement,
2016, is amended to read:

77-2734.01 (1)(a) For taxable years beginning or deemed to begin
before January 1, 2019, under the Internal Revenue Code of 1986, as
amended, residents (1) Residents of Nebraska who are shareholders of a
small business corporation having an election in effect under subchapter
S of the Internal Revenue Code or who are members of a limited liability
compact organized pursuant to the Nebraska Uniform Limited Liability
Company Act shall include in their Nebraska taxable income, to the extent
includable in federal gross income, their proportionate share of such
corporation's or limited liability company's federal income adjusted
pursuant to this section. Income or loss from such corporation or limited
liability company conducting a business, trade, profession, or occupation
shall be included in the Nebraska taxable income of a shareholder or
member who is a resident of this state to the extent of such
shareholder's or member's proportionate share of the net income or loss
from the conduct of such business, trade, profession, or occupation
within this state, determined under subsection (2) of this section.

(b) For taxable years beginning or deemed to begin on or after
January 1, 2019, under the Internal Revenue Code of 1986, as amended,
residents of Nebraska who are shareholders of a small business
corporation having an election in effect under subchapter S of the
Internal Revenue Code or who are members of a limited liability company
organized pursuant to the Nebraska Uniform Limited Liability Company Act
shall include in their Nebraska taxable income, to the extent includable
in federal gross income, their proportionate share of such corporation's
or limited liability company's federal income without any adjustments
pursuant to this section.

(c) For all taxable years, a resident of Nebraska shall include in
Nebraska taxable income fair compensation for services rendered to such
corporation or limited liability company. Compensation actually paid
shall be presumed to be fair unless it is apparent to the Tax
Commissioner that such compensation is materially different from fair
value for the services rendered or has been manipulated for tax avoidance
purposes.

(2) The income of any small business corporation having an election
in effect under subchapter S of the Internal Revenue Code or limited
liability company organized pursuant to the Nebraska Uniform Limited
Liability Company Act that is derived from or connected with Nebraska
sources shall be determined in the following manner:

(a) If the small business corporation is a member of a unitary
group, the small business corporation shall be deemed to be doing
business within this state if any part of its income is derived from
transactions with other members of the unitary group doing business
within this state, and such corporation shall apportion its income by
using the apportionment factor determined for the entire unitary group, including the small business corporation, under sections 77-2734.05 to 77-2734.15;

(b) If the small business corporation or limited liability company is not a member of a unitary group and is subject to tax in another state, it shall apportion its income under sections 77-2734.05 to 77-2734.15; and

(c) If the small business corporation or limited liability company is not subject to tax in another state, all of its income is derived from or connected with Nebraska sources.

(3) Nonresidents of Nebraska who are shareholders of such corporations or members of such limited liability companies shall file a Nebraska income tax return and shall include in Nebraska adjusted gross income their proportionate share of the corporation's or limited liability company's Nebraska income as determined under subsection (2) of this section.

(4) The nonresident shareholder or member shall execute and forward to the corporation or limited liability company before the filing of the corporation's or limited liability company's return an agreement which states he or she will file a Nebraska income tax return and pay the tax on the income derived from or connected with sources in this state, and such agreement shall be attached to the corporation's or limited liability company's Nebraska return for such taxable year.

(5) For taxable years beginning or deemed to begin before January 1, 2013, in the absence of the nonresident shareholder's or member's executed agreement being attached to the Nebraska return, the corporation or limited liability company shall remit with the return an amount equal to the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident shareholder's or member's share of the corporation's or limited liability company's income which was derived from or attributable to this state. For taxable years beginning
or deemed to begin on or after January 1, 2013, in the absence of the
nonresident shareholder's or member's executed agreement being attached
to the Nebraska return, the corporation or limited liability company
shall remit with the return an amount equal to the highest individual
income tax rate determined under section 77-2715.03 multiplied by the
nonresident shareholder's or member's share of the corporation's or
limited liability company's income which was derived from or attributable
to this state. The amount remitted shall be allowed as a credit against
the Nebraska income tax liability of the shareholder or member.

(6) The Tax Commissioner may allow a nonresident individual
shareholder or member to not file a Nebraska income tax return if the
nonresident individual shareholder's or member's only source of Nebraska
income was his or her share of the small business corporation's or
limited liability company's income which was derived from or attributable
to sources within this state, the nonresident did not file an agreement
to file a Nebraska income tax return, and the small business corporation
or limited liability company has remitted the amount required by
subsection (5) of this section on behalf of such nonresident individual
shareholder or member. The amount remitted shall be retained in
satisfaction of the Nebraska income tax liability of the nonresident
individual shareholder or member.

(7) A small business corporation or limited liability company return
shall be filed only if one or more of the shareholders of the corporation
or members of the limited liability company are not residents of the
State of Nebraska or, for taxable years beginning or deemed to begin
before January 1, 2019, if such corporation or limited liability company
has income derived from sources outside this state.

(8) For purposes of this section, any shareholder or member of the
corporation or limited liability company that is a grantor trust of a
nonresident shall be disregarded and this section shall apply as though
the nonresident grantor was the shareholder or member.
Sec. 30. Section 77-27,132, Revised Statutes Supplement, 2017, is amended to read:

77-27,132 (1) There is hereby created a fund to be designated the Revenue Distribution Fund which shall be set apart and maintained by the Tax Commissioner. Revenue not required to be credited to the General Fund or any other specified fund may be credited to the Revenue Distribution Fund. Credits and refunds of such revenue shall be paid from the Revenue Distribution Fund. The balance of the amount credited, after credits and refunds, shall be allocated as provided by the statutes creating such revenue.

(2) The Tax Commissioner shall pay to a depository bank designated by the State Treasurer all amounts collected under the Nebraska Revenue Act of 1967. The Tax Commissioner shall present to the State Treasurer bank receipts showing amounts so deposited in the bank, and of the amounts so deposited the State Treasurer shall:

(a) For transactions occurring on or after October 1, 2014, and before October 1, 2022, credit to the Game and Parks Commission Capital Maintenance Fund all of the proceeds of the sales and use taxes imposed pursuant to section 77-2703 on the sale or lease of motorboats as defined in section 37-1204, personal watercraft as defined in section 37-1204.01, all-terrain vehicles as defined in section 60-103, and utility-type vehicles as defined in section 60-135.01;

(b) Credit to the Highway Trust Fund all of the proceeds of the sales and use taxes derived from the sale or lease for periods of more than thirty-one days of motor vehicles, trailers, and semitrailers, except that (i) the proceeds equal to any sales tax rate provided for in section 77-2701.02 that is in excess of five and one-half percent derived from the sale or lease for periods of more than thirty-one days of motor vehicles, trailers, and semitrailers shall be credited to the Highway Allocation Fund and (ii) the proceeds derived from imposing sales and use taxes on the trade-in value of motor vehicles shall be distributed as
provided in subdivision (2)(e) of this section;

(c) For transactions occurring on or after July 1, 2013, and before July 1, 2033, of the proceeds of the sales and use taxes derived from transactions other than those listed in subdivisions (2)(a) and (b) of this section from a sales tax rate of one-quarter of one percent, credit monthly eighty-five percent to the State Highway Capital Improvement Fund and fifteen percent to the Highway Allocation Fund; and

(d) Of the proceeds of the sales and use taxes derived from transactions other than those listed in subdivisions (2)(a) and (b) of this section, credit to the Property Tax Credit Cash Fund the amount certified under section 77-27,237, if any such certification is made; and

(e) Credit to the Property Tax Credit Cash Fund an amount equal to the net increase in state sales and use tax revenue and state income tax revenue received as a result of the changes made by this legislative bill, minus the increase in funds paid to school districts pursuant to the Tax Equity and Educational Opportunities Support Act as a result of the changes made by this legislative bill, and minus two hundred thousand dollars to account for the money spent on the education study required in section 42 of this act. The amount to be credited under this subdivision shall be determined annually by the Tax Commissioner. The reduction for the education study shall occur only for the first time that funds are credited under this subdivision.

The balance of all amounts collected under the Nebraska Revenue Act of 1967 shall be credited to the General Fund.

Sec. 31. Section 77-2912, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-2912 There shall be no new applications filed under the Nebraska Job Creation and Mainstreet Revitalization Act after December 31, 2018. All applications and all credits pending or approved before such date shall continue in full force and effect, except that no credits
shall be allocated under section 77-2905, issued under section 77-2906, or used on any tax return or similar filing after December 31, 2027.

Sec. 32. Section 77-3446, Revised Statutes Supplement, 2017, is amended to read:

77-3446 Base limitation means the budget limitation rate applicable to school districts and the limitation on growth of restricted funds applicable to other political subdivisions prior to any increases in the rate as a result of special actions taken by a supermajority of any governing board or of any exception allowed by law. The base limitation is two and one-half percent until adjusted, except that the base limitation for school districts for school fiscal years 2017-18 and 2018-19 is one and one-half percent. The base limitation may be adjusted annually by the Legislature to reflect changes in the prices of services and products used by school districts and political subdivisions.

Sec. 33. Section 79-1005.01, Revised Statutes Cumulative Supplement, 2016, is amended to read:

79-1005.01 (1) Not later than November 15 of each year, the Tax Commissioner shall certify to the department for the preceding tax year the income tax liability of resident individuals for each local system.

(2) For school fiscal years prior to 2017-18, one hundred two million two hundred eighty-nine thousand eight hundred seventeen dollars which is equal to the amount appropriated to the School District Income Tax Fund for distribution in school fiscal year 1992-93 shall be disbursed as option payments as determined under section 79-1009 and as allocated income tax funds as determined in this section and sections 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01, except as provided in section 79-1008.02 for school fiscal years prior to school fiscal year 2017-18. For school fiscal years prior to school fiscal year 2017-18, funds not distributed as allocated income tax funds due to minimum levy adjustments shall not increase the amount available to local systems for distribution as allocated income tax funds.
Using the data certified by the Tax Commissioner pursuant to subsection (1) of this section, the department shall calculate the allocation percentage and each local system's allocated income tax funds. The allocation percentage shall be the amount stated in subsection (2) of this section minus the total amount paid for option students pursuant to section 79-1009, with the difference divided by the aggregate statewide income tax liability of all resident individuals certified pursuant to subsection (1) of this section. Each local system's allocated income tax funds shall be calculated by multiplying the allocation percentage times the local system's income tax liability certified pursuant to subsection (1) of this section.

(4) For school fiscal years 2017-18 and 2018-19 each school fiscal year thereafter, each local system’s allocated income tax funds shall be calculated by multiplying the local system’s income tax liability certified pursuant to subsection (1) of this section by two and twenty-three hundredths percent.

(5) For school fiscal year 2019-20 and each school fiscal year thereafter, each local system’s allocated income tax funds shall be calculated by multiplying the local system’s income tax liability certified pursuant to subsection (1) of this section by twenty percent.

Sec. 34. Section 79-1009, Revised Statutes Supplement, 2017, is amended to read:

79-1009 (1)(a) A district shall receive net option funding if (i) option students as defined in section 79-233 were actually enrolled in the school year immediately preceding the school year in which the aid is to be paid, (ii) option students as defined in such section will be enrolled in the school year in which the aid is to be paid as converted contract option students, or (iii) for the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, open enrollment students were actually enrolled for school year 2016-17 pursuant to section 79-2110.
(b) The determination of the net number of option students shall be based on (i) the number of students enrolled in the district as option students and the number of students residing in the district but enrolled in another district as option students as of the day of the fall membership count pursuant to section 79-528, for the school fiscal year immediately preceding the school fiscal year in which aid is to be paid, (ii) the number of option students that will be enrolled in the district or enrolled in another district as converted contract option students for the fiscal year in which the aid is to be paid, and (iii) for the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, the number of students enrolled in the district as open enrollment students and the number of students residing in the district but enrolled in another district as open enrollment students as of the day of the fall membership count pursuant to section 79-528 for school fiscal year 2016-17.

(c) Except as otherwise provided in this subsection, net number of option students means the difference of the number of option students enrolled in the district minus the number of students residing in the district but enrolled in another district as option students. For purposes of the calculation of aid for school fiscal year 2017-18 for school districts that are members of a learning community, net number of option students means the difference of the number of students residing in another school district who are option students or open enrollment students enrolled in the district minus the number of students residing in the district but enrolled in another district as option students or open enrollment students.

(2)(a) For all school fiscal years except school fiscal years 2017-18 and 2018-19, net option funding shall be the product of the net number of option students multiplied by the statewide average basic funding per formula student.

(b) For school fiscal years 2017-18 and 2018-19, net option...
funding shall be the product of the net number of option students multiplied by ninety-five and five-tenths percent of the statewide average basic funding per formula student.

(3) A district's net option funding shall be zero if the calculation produces a negative result.

Payments made under this section for school fiscal years prior to school fiscal year 2017-18 shall be made from the funds to be disbursed under section 79-1005.01.

Such payments shall go directly to the option school district but shall count as a formula resource for the local system.

Sec. 35. Section 79-1015.01, Revised Statutes Supplement, 2017, is amended to read:

79-1015.01 (1) Local system formula resources shall include local effort rate yield which shall be computed as prescribed in this section.

(2) For each school fiscal year except school fiscal years 2017-18 and 2018-19: (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be the maximum levy, for the school fiscal year for which aid is being certified, authorized pursuant to subdivision (2)(a) of section 77-3442 less five cents; (b) for the final calculation of state aid pursuant to section 79-1065, the local effort rate shall be the rate which, when multiplied by the total adjusted valuation of all taxable property in local systems receiving equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act, will produce the amount needed to support the total formula need of such local systems when added to state aid appropriated by the Legislature and other actual receipts of local systems described in section 79-1018.01; and (c) the local effort rate yield for such school fiscal years shall be determined by multiplying each local system's total adjusted valuation by the local effort rate.

(3) For school fiscal years 2017-18 and 2018-19: (a) For state aid certified pursuant to section 79-1022, the local effort rate shall be
the maximum levy, for the school fiscal year for which aid is being
certified, authorized pursuant to subdivision (2)(a) of section 77-3442
less two and ninety-seven hundredths cents; (b) for the final calculation
of state aid pursuant to section 79-1065, the local effort rate shall be
the rate which, when multiplied by the total adjusted valuation of all
taxable property in local systems receiving equalization aid pursuant to
the Tax Equity and Educational Opportunities Support Act, will produce
the amount needed to support the total formula need of such local systems
when added to state aid appropriated by the Legislature and other actual
receipts of local systems described in section 79-1018.01; and (c) the
local effort rate yield for such school fiscal years shall be determined
by multiplying each local system's total adjusted valuation by the local
effort rate.

Sec. 36. Section 79-1022, Revised Statutes Supplement, 2017, is
amended to read:

79-1022 (1) On or before May 1, 2018 June 1, 2017, and on or before
March 1 of each year thereafter, for each ensuing fiscal year, the
department shall determine the amounts to be distributed to each local
system and each district for the ensuing school fiscal year pursuant to
the Tax Equity and Educational Opportunities Support Act and shall
certify the amounts to the Director of Administrative Services, the
Auditor of Public Accounts, each learning community for school fiscal
years prior to school fiscal year 2017-18, and each district. Except as
otherwise provided in this section, the amount to be distributed to each
district from the amount certified for a local system shall be
proportional based on the formula students attributed to each district in
the local system. For school fiscal years prior to school fiscal year
2017-18, the amount to be distributed to each district that is a member
of a learning community from the amount certified for the local system
shall be proportional based on the formula needs calculated for each
district in the local system. On or before May 1, 2018 June 1, 2017, and
on or before March 1 of each year thereafter, for each ensuing fiscal
time, the department shall report the necessary funding level for the
ensuing school fiscal year to the Governor, the Appropriations Committee
of the Legislature, and the Education Committee of the Legislature. The
report submitted to the committees of the Legislature shall be submitted
electronically. Except as otherwise provided in this subsection,
certified state aid amounts, including adjustments pursuant to section
79-1065.02, shall be shown as budgeted non-property-tax receipts and
deducted prior to calculating the property tax request in the district's
general fund budget statement as provided to the Auditor of Public
Accounts pursuant to section 79-1024.

(2) Except as provided in this subsection, subsection (8) of section
79-1016, and sections 79-1005, 79-1033, and 79-1065.02, the amounts
certified pursuant to subsection (1) of this section shall be distributed
in ten as nearly as possible equal payments on the last business day of
each month beginning in September of each ensuing school fiscal year and
ending in June of the following year, except that when a school district
is to receive a monthly payment of less than one thousand dollars, such
payment shall be one lump-sum payment on the last business day of
December during the ensuing school fiscal year.

Sec. 37. Section 79-1022.02, Revised Statutes Supplement, 2017, is
amended to read:

79-1022.02 Notwithstanding any other provision of law, any
certification of state aid pursuant to section 79-1022, certification of
budget authority pursuant to section 79-1023, and certification of
applicable allowable reserve percentages pursuant to section 79-1027
completed prior to the operative date of this section February 16, 2017,
for school fiscal year 2018-19 2017-18 is null and void.

Sec. 38. Section 79-1023, Revised Statutes Supplement, 2017, is
amended to read:

79-1023 (1) On or before May 1, 2018 June 1, 2017, and on or before
March 1 of each year thereafter, the department shall determine and certify to each school district budget authority for the general fund budget of expenditures for the ensuing school fiscal year. On or before May 1, 2018, the department shall redetermine and recertify to each school district budget authority for the general fund budget of expenditures for the 2017-18 school fiscal year.

(2) Except as provided in sections 79-1028.01, 79-1029, 79-1030, and 81-829.51, each school district shall have budget authority for the general fund budget of expenditures equal to the greater of (a) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated, (b) the general fund budget of expenditures for the immediately preceding school fiscal year minus exclusions pursuant to subsection (1) of section 79-1028.01 for such school fiscal year with the difference increased by an amount equal to any student growth adjustment calculated for the school fiscal year for which budget authority is being calculated, or (c) one hundred ten percent of formula need for the school fiscal year for which budget authority is being calculated minus the special education budget of expenditures as filed on the school district budget statement on or before September 20 for the immediately preceding school fiscal year, which special education budget of expenditures is increased by the basic allowable growth rate for the school fiscal year for which budget authority is being calculated.

(3) For any school fiscal year for which the budget authority for the general fund budget of expenditures for a school district is based on a student growth adjustment, the budget authority for the general fund budget of expenditures for such school district shall be adjusted in future years to reflect any student growth adjustment corrections related
to such student growth adjustment.

Sec. 39. Section 79-1025, Reissue Revised Statutes of Nebraska, is amended to read:

79-1025  (1) Except as otherwise provided in this section, the basic allowable growth rate for general fund expenditures other than expenditures for special education shall be the base limitation established under section 77-3446.

(2) For purposes of calculating the cost growth factor pursuant to section 79-1007.10 for state aid calculated for school fiscal year 2018-19 and recalculating school district budget authority for the general fund budget of expenditures pursuant to section 79-1023 for school fiscal year 2017-18, the basic allowable growth rate for school fiscal year 2017-18 is two and one-half percent.

(3) The budget authority for special education for all classes of school districts shall be the actual anticipated expenditures for special education subject to the approval of the state board. Such budget authority and funds generated pursuant to such budget authority shall be used only for special education expenditures.

Sec. 40. Section 79-1027, Revised Statutes Supplement, 2017, is amended to read:

79-1027 No district shall adopt a budget, which includes total requirements of depreciation funds, necessary employee benefit fund cash reserves, and necessary general fund cash reserves, exceeding the applicable allowable reserve percentages of total general fund budget of expenditures as specified in the schedule set forth in this section.

<table>
<thead>
<tr>
<th>Average daily membership of district</th>
<th>Allowable reserve percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 471</td>
<td>45</td>
</tr>
<tr>
<td>471.01 - 3,044</td>
<td>35</td>
</tr>
<tr>
<td>3,044.01 - 10,000</td>
<td>25</td>
</tr>
</tbody>
</table>
On or before May 1, 2018 June 1, 2017, and on or before March 1 each year thereafter, the department shall determine and certify each district's applicable allowable reserve percentage for the ensuing school fiscal year.

Each district with combined necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves less than the applicable allowable reserve percentage specified in this section may, notwithstanding the district's applicable allowable growth rate, increase its necessary general fund cash reserves such that the total necessary general fund cash reserves, total requirements of depreciation funds, and necessary employee benefit fund cash reserves do not exceed such applicable allowable reserve percentage.

Sec. 41. Section 79-1031.01, Revised Statutes Supplement, 2017, is amended to read:

79-1031.01 The Appropriations Committee of the Legislature shall annually include the amount necessary to fund the state aid that will be certified to school districts on or before May 1, 2018 June 1, 2017, and on or before March 1 of each year thereafter for each ensuing school fiscal year in its recommendations to the Legislature to carry out the requirements of the Tax Equity and Educational Opportunities Support Act.

Sec. 42. (1) The State Department of Education shall oversee an in-depth review of the financing of the public elementary and secondary schools. The review shall include, but not be limited to:

(a) Examination of methods of financing public elementary and secondary schools that would provide equitable educational opportunities across the state and offer alternatives to a heavy reliance on property tax;

(b) Examination of financing issues as they relate to the quality and performance of public elementary and secondary schools;

(c) Examination of the costs and resources necessary to meet the
diverse and growing needs of students across the state;

d) Examination of methods used by other states to fund public
   elementary and secondary school infrastructure needs; and

e) Examination of other issues related to public elementary and
   secondary school finance as determined by the department.

(2) To conduct this review, the department may:

a) Hire staff or contract with one or more consultants; and

b) Obtain assistance from the Department of Revenue to acquire
   necessary data to carry out this section.

(3) The department shall prepare a preliminary report on the
   progress of the review and submit such report electronically to the
   Legislature on or before December 31, 2018. The department shall submit
   the final report with recommendations electronically to the Governor and
   Legislature on or before December 1, 2019.

(4) It is the intent of the Legislature to appropriate at least two
   hundred thousand dollars to the department to carry out this section.
Sec. 46. Original sections 77-2602, 77-2715, 77-2716, 77-2717, and 77-2734.01, Revised Statutes Cumulative Supplement, 2016, and section 77-2701, Revised Statutes Supplement, 2017, are repealed.

Sec. 47. The following sections are outright repealed: Sections 77-2704.07, 77-2704.14, 77-2704.52 and 77-2704.55, Reissue Revised Statutes of Nebraska, and sections 77-2704.56, 77-2704.65, and 77-2704.67, Revised Statutes Cumulative Supplement, 2016.

Sec. 48. The following sections are outright repealed: Section 77-2715.09, Reissue Revised Statutes of Nebraska, and section 77-2715.08, Revised Statutes Cumulative Supplement, 2016.

Sec. 49. Since an emergency exists, this act takes effect when passed and approved according to law.