

LEGISLATURE 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

1           dates; to repeal the original sections; to outright repeal sections  
2           77-2704.07, 77-2704.14, 77-2704.52, 77-2704.55, and 77-2715.09,  
3           Reissue Revised Statutes of Nebraska, and sections 77-2704.56,  
4           77-2704.65, 77-2704.67, and 77-2715.08, Revised Statutes Cumulative  
5           Supplement, 2016; and to declare an emergency.  
6   Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 8 of this act shall be known and may be  
2 cited as the Property Tax Request Limitation Act.

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

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

7           (2) Average daily membership has the same meaning as in section  
8 79-1003;

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

14           (4) Department means the State Department of Education;

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

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

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

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

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

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

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

30           (2) The school board of each school district shall calculate the  
31 school district's property tax request authority each year as follows:

1       (a) The school district's property tax request from the prior year  
2 shall be increased by whichever of the following percentages is the  
3 highest:

4       (i) The base growth percentage;

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

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

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

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

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

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

27       (3) The school board shall report the amount determined under  
28 subsection (2) of this section to the department upon forms prescribed by  
29 the department. If the department determines that such amount was  
30 calculated correctly, the department shall approve and certify the amount  
31 to the school board. Such certified amount shall be the school district's

1 property tax request authority.

2       Sec. 4. Section 3 of this act shall not apply to that portion of a  
3 school district's property tax request that is needed to pay the  
4 principal and interest on approved bonds.

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

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

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

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

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

1        (d) Four percent for school districts with an average daily  
2 membership of more than ten thousand students.

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

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

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

30        Sec. 9. Section 77-202, Revised Statutes Cumulative Supplement,  
31 2016, is amended to read:

1           77-202 (1) The following property shall be exempt from property  
2 taxes:

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

6           (i) Property of the state and its governmental subdivisions means

7 (A) property held in fee title by the state or a governmental subdivision

8 or (B) property beneficially owned by the state or a governmental

9 subdivision in that it is used for a public purpose and is being acquired

10 under a lease-purchase agreement, financing lease, or other instrument

11 which provides for transfer of legal title to the property to the state

12 or a governmental subdivision upon payment of all amounts due thereunder.

13 If the property to be beneficially owned by a governmental subdivision

14 has a total acquisition cost that exceeds the threshold amount or will be

15 used as the site of a public building with a total estimated construction

16 cost that exceeds the threshold amount, then such property shall qualify

17 for an exemption under this section only if the question of acquiring

18 such property or constructing such public building has been submitted at

19 a primary, general, or special election held within the governmental

20 subdivision and has been approved by the voters of the governmental

21 subdivision. For purposes of this subdivision, threshold amount means the

22 greater of fifty thousand dollars or six-tenths of one percent of the

23 total actual value of real and personal property of the governmental

24 subdivision that will beneficially own the property as of the end of the

25 governmental subdivision's prior fiscal year; and

26           (ii) Public purpose means use of the property (A) to provide public

27 services with or without cost to the recipient, including the general

28 operation of government, public education, public safety, transportation,

29 public works, civil and criminal justice, public health and welfare,

30 developments by a public housing authority, parks, culture, recreation,

31 community development, and cemetery purposes, or (B) to carry out the

1 duties and responsibilities conferred by law with or without  
2 consideration. Public purpose does not include leasing of property to a  
3 private party unless the lease of the property is at fair market value  
4 for a public purpose. Leases of property by a public housing authority to  
5 low-income individuals as a place of residence are for the authority's  
6 public purpose;

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

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

27 (d) Property owned by educational, religious, charitable, or  
28 cemetery organizations, or any organization for the exclusive benefit of  
29 any such educational, religious, charitable, or cemetery organization,  
30 and used exclusively for educational, religious, charitable, or cemetery  
31 purposes, when such property is not (i) owned or used for financial gain



1 or profit to either the owner or user, (ii) used for the sale of  
2 alcoholic liquors for more than twenty hours per week, or (iii) owned or  
3 used by an organization which discriminates in membership or employment  
4 based on race, color, or national origin. For purposes of this  
5 subdivision, educational organization means (A) an institution operated  
6 exclusively for the purpose of offering regular courses with systematic  
7 instruction in academic, vocational, or technical subjects or assisting  
8 students through services relating to the origination, processing, or  
9 guarantying of federally reinsured student loans for higher education or  
10 (B) a museum or historical society operated exclusively for the benefit  
11 and education of the public. For purposes of this subdivision, charitable  
12 organization includes an organization operated exclusively for the  
13 purpose of the mental, social, or physical benefit of the public or an  
14 indefinite number of persons and a fraternal benefit society organized  
15 and licensed under sections 44-1072 to 44-10,109; and

16 (e) Household goods and personal effects not owned or used for  
17 financial gain or profit to either the owner or user.

18 (2) The increased value of land by reason of shade and ornamental  
19 trees planted along the highway shall not be taken into account in the  
20 valuation of land.

21 (3) Tangible personal property which is not depreciable tangible  
22 personal property as defined in section 77-119 shall be exempt from  
23 property tax.

24 (4) Motor vehicles, trailers, and semitrailers required to be  
25 registered for operation on the highways of this state shall be exempt  
26 from payment of property taxes.

27 (5) Business and agricultural inventory shall be exempt from the  
28 personal property tax. For purposes of this subsection, business  
29 inventory includes personal property owned for purposes of leasing or  
30 renting such property to others for financial gain only if the personal  
31 property is of a type which in the ordinary course of business is leased

1 or rented thirty days or less and may be returned at the option of the  
2 lessee or renter at any time and the personal property is of a type which  
3 would be considered household goods or personal effects if owned by an  
4 individual. All other personal property owned for purposes of leasing or  
5 renting such property to others for financial gain shall not be  
6 considered business inventory.

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

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

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

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

28 (10) Any tangible personal property that is acquired by a person  
29 operating a data center located in this state, that is assembled,  
30 engineered, processed, fabricated, manufactured into, attached to, or  
31 incorporated into other tangible personal property, both in component

1 form or that of an assembled product, for the purpose of subsequent use  
2 at a physical location outside this state by the person operating a data  
3 center shall be exempt from the personal property tax. Such exemption  
4 extends to keeping, retaining, or exercising any right or power over  
5 tangible personal property in this state for the purpose of subsequently  
6 transporting it outside this state for use thereafter outside this state.  
7 For purposes of this subsection, data center means computers, supporting  
8 equipment, and other organized assembly of hardware or software that are  
9 designed to centralize the storage, management, or dissemination of data  
10 and information, environmentally controlled structures or facilities or  
11 interrelated structures or facilities that provide the infrastructure for  
12 housing the equipment, such as raised flooring, electricity supply,  
13 communication and data lines, Internet access, cooling, security, and  
14 fire suppression, and any building housing the foregoing.

15 (11) For each person who owns property required to be reported to  
16 the county assessor under section 77-1201, there shall be allowed, for  
17 tax years prior to tax year 2019, an exemption amount as provided in the  
18 Personal Property Tax Relief Act. For each person who owns property  
19 required to be valued by the state as provided in section 77-601, 77-682,  
20 77-801, or 77-1248, there shall be allowed, for tax years prior to tax  
21 year 2019, a compensating exemption factor as provided in the Personal  
22 Property Tax Relief Act.

23 Sec. 10. Section 77-382, Revised Statutes Cumulative Supplement,  
24 2016, is amended to read:

25 77-382 (1) The department shall prepare a tax expenditure report  
26 describing (a) the basic provisions of the Nebraska tax laws, (b) the  
27 actual or estimated revenue loss caused by the exemptions, deductions,  
28 exclusions, deferrals, credits, and preferential rates in effect on July  
29 1 of each year and allowed under Nebraska's tax structure and in the  
30 property tax, (c) the actual or estimated revenue loss caused by failure  
31 to impose sales and use tax on services purchased for nonbusiness use,

1 and (d) the elements which make up the tax base for state and local  
2 income, including income, sales and use, property, and miscellaneous  
3 taxes.

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

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

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

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

28 (d) Consumer goods, which shall include a separate listing for the  
29 following items: Merchandise ~~Motor vehicles and motorboat trade-ins;~~  
30 ~~merchandise~~ trade-ins; certain medical equipment and medicine;  
31 ~~newspapers; laundromats; telefloral deliveries;~~ motor vehicle discounts

1 for the disabled; and political campaign fundraisers;

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

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

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

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

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

21 (j) Nonprofits, governments, and exempt entities, which shall  
22 include a separate listing for the following items: Purchases by  
23 political subdivisions of the state; purchases by churches and nonprofit  
24 colleges and medical facilities; purchasing agents for public real estate  
25 construction improvements; contractor as purchasing agent for public  
26 agencies; Nebraska lottery; ~~admissions to school events~~; sales on Native  
27 American Indian reservations; school-supporting fundraisers; ~~fine art~~  
28 ~~purchases by a museum~~; purchases by the Nebraska State Fair Board;  
29 purchases by the Nebraska Investment Finance Authority and licensees of  
30 the State Racing Commission; purchases by the United States Government;  
31 public records; and sales by religious organizations;

1 (k) Recent sales tax expenditures, which shall include a separate  
2 listing for each sales tax expenditure created by statute or rule and  
3 regulation after July 19, 2012;

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

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

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

22 Sec. 11. Section 77-693, Revised Statutes Cumulative Supplement,  
23 2016, is amended to read:

24 77-693 (1) The Property Tax Administrator in determining the taxable  
25 value of railroads and car lines shall determine the following ratios  
26 involving railroad and car line property and commercial and industrial  
27 property:

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

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

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

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

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

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

28 (3) For purposes of this section, commercial and industrial property  
29 shall mean all real and personal property which is devoted to commercial  
30 or industrial use other than rail transportation property and land used  
31 primarily for agricultural purposes.

1           (4) After the adjustment made pursuant to subsections (1) and (2) of  
2 this section, the Property Tax Administrator shall, for tax years prior  
3 to tax year 2019, multiply the value of the tangible personal property of  
4 each railroad and car line by the compensating exemption factor  
5 calculated in section 77-1238.

6           Sec. 12. Section 77-801, Revised Statutes Cumulative Supplement,  
7 2016, is amended to read:

8           77-801 (1) All public service entities shall, on or before April 15  
9 of each year, furnish a statement specifying such information as may be  
10 required by the Property Tax Administrator on forms prescribed by the Tax  
11 Commissioner to determine and distribute the entity's total taxable value  
12 including the franchise value. All information reported by the public  
13 service entities, not available from any other public source, and any  
14 memorandum thereof shall be confidential and available to taxing  
15 officials only. For good cause shown, the Property Tax Administrator may  
16 allow an extension of time in which to file such statement. Such  
17 extension shall not exceed fifteen days after April 15.

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

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

30           (4) The Property Tax Administrator shall, for tax years prior to tax  
31 year 2019, multiply the value of the tangible personal property of each



1 public service entity by the compensating exemption factor calculated in  
2 section 77-1238.

3 Sec. 13. Section 77-1116, Revised Statutes Cumulative Supplement,  
4 2016, is amended to read:

5 77-1116 (1) A qualified community development entity that seeks to  
6 have an equity investment or long-term debt security designated as a  
7 qualified equity investment and eligible for tax credits under the New  
8 Markets Job Growth Investment Act shall apply to the Tax Commissioner.  
9 There shall be no new applications for such designation filed under this  
10 section after December 31, ~~2018~~ 2022.

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

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

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

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

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

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

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

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

31 (3) Within thirty days after receipt of a completed application

1 containing the information necessary for the Tax Commissioner to certify  
2 a potential qualified equity investment, including the payment of the  
3 application fee, the Tax Commissioner shall grant or deny the application  
4 in full or in part. If the Tax Commissioner denies any part of the  
5 application, the Tax Commissioner shall inform the qualified community  
6 development entity of the grounds for the denial. If the qualified  
7 community development entity provides any additional information required  
8 by the Tax Commissioner or otherwise completes its application within  
9 fifteen days after the notice of denial, the application shall be  
10 considered completed as of the original date of submission. If the  
11 qualified community development entity fails to provide the information  
12 or complete its application within the fifteen-day period, the  
13 application remains denied and must be resubmitted in full with a new  
14 submission date.

15 (4) If the application is deemed complete, the Tax Commissioner  
16 shall certify the proposed equity investment or long-term debt security  
17 as a qualified equity investment that is eligible for tax credits,  
18 subject to the limitations contained in section 77-1115. The Tax  
19 Commissioner shall provide written notice of the certification to the  
20 qualified community development entity. The notice shall include the  
21 names of those taxpayers who are eligible to utilize the credits and  
22 their respective credit amounts. If the names of the taxpayers who are  
23 eligible to utilize the credits change due to a transfer of a qualified  
24 equity investment or a change in an allocation pursuant to section  
25 77-1114, the qualified community development entity shall notify the Tax  
26 Commissioner of such change.

27 (5) The Tax Commissioner shall certify qualified equity investments  
28 in the order applications are received. Applications received on the same  
29 day shall be deemed to have been received simultaneously. For  
30 applications received on the same day and deemed complete, the Tax  
31 Commissioner shall certify, consistent with remaining tax credit

1 capacity, qualified equity investments in proportionate percentages based  
2 upon the ratio of the amount of qualified equity investment requested in  
3 an application to the total amount of qualified equity investments  
4 requested in all applications received on the same day.

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

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

26 Sec. 14. Section 77-1238, Revised Statutes Cumulative Supplement,  
27 2016, is amended to read:

28 77-1238 (1) For tax years prior to tax year 2019, every Every person  
29 who is required to list his or her taxable tangible personal property as  
30 defined in section 77-105, as required under section 77-1229, shall  
31 receive an exemption from taxation for the first ten thousand dollars of

1 valuation of his or her tangible personal property in each tax district  
2 as defined in section 77-127 in which a personal property return is  
3 required to be filed. Failure to report tangible personal property on the  
4 personal property return required by section 77-1229 shall result in a  
5 forfeiture of the exemption for any tangible personal property not timely  
6 reported for that year.

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

21 Sec. 15. Section 77-1248, Revised Statutes Cumulative Supplement,  
22 2016, is amended to read:

23 77-1248 (1) The Property Tax Administrator shall ascertain from the  
24 reports made and from any other information obtained by him or her the  
25 taxable value of the flight equipment of air carriers and the proportion  
26 allocated to this state for the purposes of taxation as provided in  
27 section 77-1245.

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

31 (i) The ratio of the taxable value of all commercial and industrial

1 depreciable tangible personal property in the state actually subjected to  
2 property tax to the market value of all commercial and industrial  
3 depreciable tangible personal property in the state; and

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

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

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

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

21 Sec. 16. Section 77-2602, Revised Statutes Cumulative Supplement,  
22 2016, is amended to read:

23 77-2602 (1) Every stamping agent engaged in distributing or selling  
24 cigarettes at wholesale in this state shall pay to the Tax Commissioner  
25 of this state a special privilege tax. This shall be in addition to all  
26 other taxes. It shall be paid prior to or at the time of the sale, gift,  
27 or delivery to the retail dealer in the several amounts as follows: On  
28 each package of cigarettes containing not more than twenty cigarettes,  
29 one dollar and sixty-four cents per package; and on packages containing  
30 more than twenty cigarettes, the same tax as provided on packages  
31 containing not more than twenty cigarettes for the first twenty

1 cigarettes in each package and a tax of one-twentieth of the tax on the  
2 first twenty cigarettes on each cigarette in excess of twenty cigarettes  
3 in each package.

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

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

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

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

29 (c) Third, beginning October 1, 2002, and continuing until all the  
30 purposes of the Deferred Building Renewal Act have been fulfilled, the  
31 State Treasurer shall place the equivalent of seven cents of such tax in

1 the Building Renewal Allocation Fund. The distribution under this  
2 subdivision shall not be less than the amount distributed under this  
3 subdivision for FY1997-98. Any money needed to increase the amount  
4 distributed under this subdivision to the FY1997-98 amount shall reduce  
5 the distribution to the General Fund;

6 (d) Fourth, until July 1, 2009, the State Treasurer shall place in  
7 the Municipal Infrastructure Redevelopment Fund the sum of five hundred  
8 twenty thousand dollars each fiscal year to carry out the Municipal  
9 Infrastructure Redevelopment Fund Act. The Legislature shall appropriate  
10 the sum of five hundred twenty thousand dollars each year for fiscal year  
11 2003-04 through fiscal year 2008-09;

12 (e) Fifth, beginning July 1, 2001, and continuing until June 30,  
13 2008, the State Treasurer shall place the equivalent of two cents of such  
14 tax in the Information Technology Infrastructure Fund. The distribution  
15 under this subdivision shall not be less than two million fifty thousand  
16 dollars. Any money needed to increase the amount distributed under this  
17 subdivision to two million fifty thousand dollars shall reduce the  
18 distribution to the General Fund;

19 (f) Sixth, beginning July 1, 2001, and continuing until June 30,  
20 2016, the State Treasurer shall place one million dollars each fiscal  
21 year in the City of the Primary Class Development Fund. If necessary, the  
22 State Treasurer shall reduce the distribution of tax proceeds to the  
23 General Fund pursuant to subsection (2) of this section by such amount  
24 required to fulfill the one million dollars to be distributed pursuant to  
25 this subdivision;

26 (g) Seventh, beginning July 1, 2001, and continuing until June 30,  
27 2016, the State Treasurer shall place one million five hundred thousand  
28 dollars each fiscal year in the City of the Metropolitan Class  
29 Development Fund. If necessary, the State Treasurer shall reduce the  
30 distribution of tax proceeds to the General Fund pursuant to subsection  
31 (2) of this section by such amount required to fulfill the one million

1 five hundred thousand dollars to be distributed pursuant to this  
2 subdivision;

3 (h) Eighth, beginning July 1, 2008, and continuing until June 30,  
4 2009, the State Treasurer shall place the equivalent of two million fifty  
5 thousand dollars of such tax in the Nebraska Public Safety Communication  
6 System Cash Fund. Beginning July 1, 2009, and continuing until June 30,  
7 2016, the State Treasurer shall place the equivalent of two million five  
8 hundred seventy thousand dollars of such tax in the Nebraska Public  
9 Safety Communication System Cash Fund. Beginning July 1, 2016, and every  
10 fiscal year thereafter, the State Treasurer shall place the equivalent of  
11 three million eight hundred twenty thousand dollars of such tax in the  
12 Nebraska Public Safety Communication System Cash Fund. If necessary, the  
13 State Treasurer shall reduce the distribution of tax proceeds to the  
14 General Fund pursuant to subsection (2) of this section by such amount  
15 required to fulfill the distribution pursuant to this subdivision;~~and~~

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

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

29 (4) If, after distributing the proceeds of such tax pursuant to  
30 subsections (2) and (3) of this section, any proceeds of such tax remain,  
31 the State Treasurer shall place such remainder in the Nebraska Capital



1 Construction Fund.

2 (5) The Legislature hereby finds and determines that the projects  
3 funded from the Municipal Infrastructure Redevelopment Fund and the  
4 Building Renewal Allocation Fund are of critical importance to the State  
5 of Nebraska. It is the intent of the Legislature that the allocations and  
6 appropriations made by the Legislature to such funds or, in the case of  
7 allocations for the Municipal Infrastructure Redevelopment Fund, to the  
8 particular municipality's account not be reduced until all contracts and  
9 securities relating to the construction and financing of the projects or  
10 portions of the projects funded from such funds or accounts of such funds  
11 are completed or paid or, in the case of the Municipal Infrastructure  
12 Redevelopment Fund, the earlier of such date or July 1, 2009, and that  
13 until such time any reductions in the cigarette tax rate made by the  
14 Legislature shall be simultaneously accompanied by equivalent reductions  
15 in the amount dedicated to the General Fund from cigarette tax revenue.  
16 Any provision made by the Legislature for distribution of the proceeds of  
17 the cigarette tax for projects or programs other than those to (a) the  
18 General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund,  
19 (c) the Health and Human Services Cash Fund, (d) the Municipal  
20 Infrastructure Redevelopment Fund, (e) the Building Renewal Allocation  
21 Fund, (f) the Information Technology Infrastructure Fund, (g) the City of  
22 the Primary Class Development Fund, (h) the City of the Metropolitan  
23 Class Development Fund, (i) the Nebraska Public Safety Communication  
24 System Cash Fund, ~~and~~ (j) the Nebraska Health Care Cash Fund, and (k) the  
25 Property Tax Credit Cash Fund shall not be made a higher priority than or  
26 an equal priority to any of the programs or projects specified in  
27 subdivisions (a) through (k) ~~(j)~~ of this subsection.

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

30 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, 77-27,235,  
31 77-27,236, and 77-27,238 and section 18 of this act shall be known and

1 may be cited as the Nebraska Revenue Act of 1967.

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

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

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

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

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

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

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

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

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

24       77-2701.02 Pursuant to section 77-2715.01:

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

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

30       (3) Commencing July 1, 1999, and until the start of the first  
31 calendar quarter after July 20, 2002, the rate of the sales tax levied

1 pursuant to section 77-2703 shall be five percent;~~and~~

2 (4) Commencing on the start of the first calendar quarter after July  
3 20, 2002, and until October 1, 2018, the rate of the sales tax levied  
4 pursuant to section 77-2703 shall be five and one-half percent; and -

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

7 Sec. 20. Section 77-2701.16, Revised Statutes Cumulative Supplement,  
8 2016, is amended to read:

9 77-2701.16 (1) Gross receipts means the total amount of the sale or  
10 lease or rental price, as the case may be, of the retail sales of  
11 retailers.

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

17 (a)(i) In the furnishing of telephone communication service, other  
18 than mobile telecommunications service as described in section  
19 77-2703.04, the gross income received from furnishing ancillary services,  
20 except for conference bridging services, and intrastate  
21 telecommunications services, except for value-added, nonvoice data  
22 service.

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

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

30 (c)(i) In the furnishing of gas, sewer, water, and electricity  
31 service, other than electricity service to a customer-generator as

1 defined in section 70-2002, the gross income received from the furnishing  
2 of such services upon billings or statements rendered to consumers for  
3 such utility services.

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

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

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

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

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

29 (b) In the furnishing of videotapes, movie film, satellite  
30 programming, satellite programming service, and satellite television  
31 signal descrambling or decoding devices, the gross income received from

1 the license, franchise, or other method establishing the charge.

2 (4) Gross receipts for providing a service means:

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

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

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

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

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

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

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

26 (h) The gross income received for detective services; -

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

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

30 (k) The gross income received for investment advice;

31 (l) The gross income received for personal care services, including

1 hair care, massages, nail services, spa services, and tattoo services;

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

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

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

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

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

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

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

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

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

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

19 (w) The gross income received for tanning services;

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

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

24 (5) Gross receipts includes the sale of admissions. When an  
25 admission to an activity or a membership constituting an admission is  
26 combined with the solicitation of a contribution, the portion or the  
27 amount charged representing the fair market price of the admission shall  
28 be considered a retail sale subject to the tax imposed by section  
29 77-2703. The organization conducting the activity shall determine the  
30 amount properly attributable to the purchase of the privilege, benefit,  
31 or other consideration in advance, and such amount shall be clearly

1 indicated on any ticket, receipt, or other evidence issued in connection  
2 with the payment.

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

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

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

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

18 (10) Gross receipts does not include:

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

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

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

27 77-2701.32 (1) Retailer means any seller.

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

31 (a) Any person in the business of making sales subject to tax under

1 section 77-2703 at auction of property owned by the person or others;

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

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

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

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

13 (3) For the proper administration of the Nebraska Revenue Act of  
14 1967, the following persons do not have the duties and responsibilities  
15 of a seller for purposes of sales and use taxes:

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

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

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

28 (d) Any person making sales at a flea market, craft show, fair, or  
29 similar event when such person does not have a sales tax permit and has  
30 arranged to pay sales taxes collected to the person operating,  
31 organizing, or promoting such event.



1       (4)(a) This subsection becomes operative on the later of July 1,  
2 2018, or the first day of the first calendar quarter after a controlling  
3 court decision or federal legislation abrogates the physical presence  
4 requirement of Quill Corp. v. North Dakota, 504 U.S. 298 (1992).

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

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

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

14       Sec. 22. Section 77-2701.35, Revised Statutes Cumulative Supplement,  
15 2016, is amended to read:

16       77-2701.35 (1) Sales price applies to the measure subject to sales  
17 tax and means the total amount of consideration, including cash, credit,  
18 property, and services, for which personal property or services are sold,  
19 leased, or rented, valued in money, whether received in money or  
20 otherwise, without any deduction for the following:

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

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

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

27       (d) Delivery charges; and

28       (e) Installation charges.

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

31       (a) The seller actually receives consideration from a party other

1 than the purchaser and the consideration is directly related to a price  
2 reduction or discount on the sale;

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

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

8 (d) One of the following criteria is met:

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

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

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

23 (3) Sales price does not include:

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

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

31 (c) Any taxes legally imposed directly on the consumer that are

1 separately stated on the invoice, bill of sale, or similar document given  
2 to the purchaser;

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

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

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

16 77-2703 (1) There is hereby imposed a tax at the rate provided in  
17 section 77-2701.02 upon the gross receipts from all sales of tangible  
18 personal property sold at retail in this state; the gross receipts of  
19 every person engaged as a public utility, as a community antenna  
20 television service operator, or as a satellite service operator, any  
21 person involved in the connecting and installing of the services defined  
22 in subdivision (2)(a), (b), (d), or (e) of section 77-2701.16, or every  
23 person engaged as a retailer of intellectual or entertainment properties  
24 referred to in subsection (3) of section 77-2701.16; the gross receipts  
25 from the sale of admissions in this state; the gross receipts from the  
26 sale of warranties, guarantees, service agreements, or maintenance  
27 agreements when the items covered are subject to tax under this section;  
28 beginning January 1, 2008, the gross receipts from the sale of bundled  
29 transactions when one or more of the products included in the bundle are  
30 taxable; the gross receipts from the provision of services defined in  
31 subsection (4) of section 77-2701.16; and the gross receipts from the

1 sale of products delivered electronically as described in subsection (9)  
2 of section 77-2701.16. Except as provided in section 77-2701.03, when  
3 there is a sale, the tax shall be imposed at the rate in effect at the  
4 time the gross receipts are realized under the accounting basis used by  
5 the retailer to maintain his or her books and records.

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

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

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

24 (d) For the purpose of more efficiently securing the payment,  
25 collection, and accounting for the sales tax and for the convenience of  
26 the retailer in collecting the sales tax, it shall be the duty of the Tax  
27 Commissioner to provide a schedule or schedules of the amounts to be  
28 collected from the consumer or user to effectuate the computation and  
29 collection of the tax imposed by the Nebraska Revenue Act of 1967. Such  
30 schedule or schedules shall provide that the tax shall be collected from  
31 the consumer or user uniformly on sales according to brackets based on

1 sales prices of the item or items. Retailers may compute the tax due on  
2 any transaction on an item or an invoice basis. The rounding rule  
3 provided in section 77-3,117 applies.

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

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

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

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

31 (i) Notice of the desire to make such election shall be filed with

1 the Tax Commissioner and shall not become effective until the Tax  
2 Commissioner is satisfied that the taxpayer has complied with all  
3 conditions of this subsection and all rules and regulations of the Tax  
4 Commissioner;

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

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

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

21 (i) The tax imposed by this section on the sales of motor vehicles,  
22 semitrailers, and trailers as defined in sections 60-339, 60-348, and  
23 60-354 shall be the liability of the purchaser and, with the exception of  
24 motor vehicles, semitrailers, and trailers registered pursuant to section  
25 60-3,198, the tax shall be collected by the county treasurer as provided  
26 in the Motor Vehicle Registration Act or by an approved licensed dealer  
27 participating in the electronic dealer services system pursuant to  
28 section 60-1507 at the time the purchaser makes application for the  
29 registration of the motor vehicle, semitrailer, or trailer for operation  
30 upon the highways of this state. The tax imposed by this section on motor  
31 vehicles, semitrailers, and trailers registered pursuant to section

1 60-3,198 shall be collected by the Department of Motor Vehicles at the  
2 time the purchaser makes application for the registration of the motor  
3 vehicle, semitrailer, or trailer for operation upon the highways of this  
4 state. At the time of the sale of any motor vehicle, semitrailer, or  
5 trailer, the seller shall (i) state on the sales invoice the dollar  
6 amount of the tax imposed under this section and (ii) furnish to the  
7 purchaser a certified statement of the transaction, in such form as the  
8 Tax Commissioner prescribes, setting forth as a minimum the total sales  
9 price, ~~the allowance for any trade-in, and the difference between the~~  
10 ~~two~~. The sales tax due shall be computed on the ~~difference between the~~  
11 total sales price ~~and the allowance for any trade-in~~ as disclosed by such  
12 certified statement. Any seller who willfully understates the amount upon  
13 which the sales tax is due shall be subject to a penalty of one thousand  
14 dollars. A copy of such certified statement shall also be furnished to  
15 the Tax Commissioner. Any seller who fails or refuses to furnish such  
16 certified statement shall be guilty of a misdemeanor and shall, upon  
17 conviction thereof, be punished by a fine of not less than twenty-five  
18 dollars nor more than one hundred dollars. If the purchaser does not  
19 register such motor vehicle, semitrailer, or trailer for operation on the  
20 highways of this state within thirty days of the purchase thereof, the  
21 tax imposed by this section shall immediately thereafter be paid by the  
22 purchaser to the county treasurer or the Department of Motor Vehicles. If  
23 the tax is not paid on or before the thirtieth day after its purchase,  
24 the county treasurer or Department of Motor Vehicles shall also collect  
25 from the purchaser interest from the thirtieth day through the date of  
26 payment and sales tax penalties as provided in the Nebraska Revenue Act  
27 of 1967. The county treasurer or Department of Motor Vehicles shall  
28 report and remit the tax so collected to the Tax Commissioner by the  
29 fifteenth day of the following month. The county treasurer shall deduct  
30 and withhold for the use of the county general fund, from all amounts  
31 required to be collected under this subsection, the collection fee

1 permitted to be deducted by any retailer collecting the sales tax. The  
2 Department of Motor Vehicles shall deduct, withhold, and deposit in the  
3 Motor Carrier Division Cash Fund the collection fee permitted to be  
4 deducted by any retailer collecting the sales tax. The collection fee  
5 shall be forfeited if the county treasurer or Department of Motor  
6 Vehicles violates any rule or regulation pertaining to the collection of  
7 the use tax.

8 (j)(i) The tax imposed by this section on the sale of a motorboat as  
9 defined in section 37-1204 shall be the liability of the purchaser. The  
10 tax shall be collected by the county treasurer at the time the purchaser  
11 makes application for the registration of the motorboat. At the time of  
12 the sale of a motorboat, the seller shall (A) state on the sales invoice  
13 the dollar amount of the tax imposed under this section and (B) furnish  
14 to the purchaser a certified statement of the transaction, in such form  
15 as the Tax Commissioner prescribes, setting forth as a minimum the total  
16 sales price, ~~the allowance for any trade-in, and the difference between~~  
17 ~~the two.~~ The sales tax due shall be computed on the ~~difference between~~  
18 ~~the total sales price and the allowance for any trade-in~~ as disclosed by  
19 such certified statement. Any seller who willfully understates the amount  
20 upon which the sales tax is due shall be subject to a penalty of one  
21 thousand dollars. A copy of such certified statement shall also be  
22 furnished to the Tax Commissioner. Any seller who fails or refuses to  
23 furnish such certified statement shall be guilty of a misdemeanor and  
24 shall, upon conviction thereof, be punished by a fine of not less than  
25 twenty-five dollars nor more than one hundred dollars. If the purchaser  
26 does not register such motorboat within thirty days of the purchase  
27 thereof, the tax imposed by this section shall immediately thereafter be  
28 paid by the purchaser to the county treasurer. If the tax is not paid on  
29 or before the thirtieth day after its purchase, the county treasurer  
30 shall also collect from the purchaser interest from the thirtieth day  
31 through the date of payment and sales tax penalties as provided in the



1 Nebraska Revenue Act of 1967. The county treasurer shall report and remit  
2 the tax so collected to the Tax Commissioner by the fifteenth day of the  
3 following month. The county treasurer shall deduct and withhold for the  
4 use of the county general fund, from all amounts required to be collected  
5 under this subsection, the collection fee permitted to be deducted by any  
6 retailer collecting the sales tax. The collection fee shall be forfeited  
7 if the county treasurer violates any rule or regulation pertaining to the  
8 collection of the use tax.

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

11 (k)(i) The tax imposed by this section on the sale of an all-terrain  
12 vehicle as defined in section 60-103 or a utility-type vehicle as defined  
13 in section 60-135.01 shall be the liability of the purchaser. The tax  
14 shall be collected by the county treasurer or by an approved licensed  
15 dealer participating in the electronic dealer services system pursuant to  
16 section 60-1507 at the time the purchaser makes application for the  
17 certificate of title for the all-terrain vehicle or utility-type vehicle.  
18 At the time of the sale of an all-terrain vehicle or a utility-type  
19 vehicle, the seller shall (A) state on the sales invoice the dollar  
20 amount of the tax imposed under this section and (B) furnish to the  
21 purchaser a certified statement of the transaction, in such form as the  
22 Tax Commissioner prescribes, setting forth as a minimum the total sales  
23 price, ~~the allowance for any trade-in, and the difference between the~~  
24 ~~two~~. The sales tax due shall be computed on the ~~difference between the~~  
25 total sales price ~~and the allowance for any trade-in~~ as disclosed by such  
26 certified statement. Any seller who willfully understates the amount upon  
27 which the sales tax is due shall be subject to a penalty of one thousand  
28 dollars. A copy of such certified statement shall also be furnished to  
29 the Tax Commissioner. Any seller who fails or refuses to furnish such  
30 certified statement shall be guilty of a misdemeanor and shall, upon  
31 conviction thereof, be punished by a fine of not less than twenty-five

1 dollars nor more than one hundred dollars. If the purchaser does not  
2 obtain a certificate of title for such all-terrain vehicle or utility-  
3 type vehicle within thirty days of the purchase thereof, the tax imposed  
4 by this section shall immediately thereafter be paid by the purchaser to  
5 the county treasurer. If the tax is not paid on or before the thirtieth  
6 day after its purchase, the county treasurer shall also collect from the  
7 purchaser interest from the thirtieth day through the date of payment and  
8 sales tax penalties as provided in the Nebraska Revenue Act of 1967. The  
9 county treasurer shall report and remit the tax so collected to the Tax  
10 Commissioner by the fifteenth day of the following month. The county  
11 treasurer shall deduct and withhold for the use of the county general  
12 fund, from all amounts required to be collected under this subsection,  
13 the collection fee permitted to be deducted by any retailer collecting  
14 the sales tax. The collection fee shall be forfeited if the county  
15 treasurer violates any rule or regulation pertaining to the collection of  
16 the use tax.

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

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

1 difference as a condition for obtaining a certificate of title in this  
2 state.

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

9 (2) A use tax is hereby imposed on the storage, use, or other  
10 consumption in this state of property purchased, leased, or rented from  
11 any retailer and on any transaction the gross receipts of which are  
12 subject to tax under subsection (1) of this section on or after June 1,  
13 1967, for storage, use, or other consumption in this state at the rate  
14 set as provided in subsection (1) of this section on the sales price of  
15 the property or, in the case of leases or rentals, of the lease or rental  
16 prices.

17 (a) Every person storing, using, or otherwise consuming in this  
18 state property purchased from a retailer or leased or rented from another  
19 person for such purpose shall be liable for the use tax at the rate in  
20 effect when his or her liability for the use tax becomes certain under  
21 the accounting basis used to maintain his or her books and records. His  
22 or her liability shall not be extinguished until the use tax has been  
23 paid to this state, except that a receipt from a retailer engaged in  
24 business in this state or from a retailer who is authorized by the Tax  
25 Commissioner, under such rules and regulations as he or she may  
26 prescribe, to collect the sales tax and who is, for the purposes of the  
27 Nebraska Revenue Act of 1967 relating to the sales tax, regarded as a  
28 retailer engaged in business in this state, which receipt is given to the  
29 purchaser pursuant to subdivision (b) of this subsection, shall be  
30 sufficient to relieve the purchaser from further liability for the tax to  
31 which the receipt refers.

1 (b) Every retailer engaged in business in this state and selling,  
2 leasing, or renting property for storage, use, or other consumption in  
3 this state shall, at the time of making any sale, collect any tax which  
4 may be due from the purchaser and shall give to the purchaser, upon  
5 request, a receipt therefor in the manner and form prescribed by the Tax  
6 Commissioner.

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

21 (d) All persons designated to collect the use tax and all persons  
22 required to collect the use tax shall forward the total of such  
23 collections to the Tax Commissioner at such time and in such manner as  
24 the Tax Commissioner may prescribe. For all use taxes collected prior to  
25 October 1, 2002, such collectors of the use tax shall deduct and withhold  
26 from the amount of taxes collected two and one-half percent of the first  
27 three thousand dollars remitted each month and one-half of one percent of  
28 all amounts in excess of three thousand dollars remitted each month as  
29 reimbursement for the cost of collecting the tax. For use taxes collected  
30 on and after October 1, 2002, such collectors of the use tax shall deduct  
31 and withhold from the amount of taxes collected two and one-half percent

1 of the first three thousand dollars remitted each month as reimbursement  
2 for the cost of collecting the tax. Any such deduction shall be forfeited  
3 to the State of Nebraska if such collector violates any rule, regulation,  
4 or directive of the Tax Commissioner.

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

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

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

20 77-2704.10 Sales and use taxes shall not be imposed on the gross  
21 receipts from the sale, lease, or rental of and the storage, use, or  
22 other consumption in this state of:

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

31 (1) (2) Prepared food and food and food ingredients sold by a church

1 at a function of such church;

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

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

9 ~~(3) (5)~~ Prepared food and food and food ingredients sold to the  
10 elderly, handicapped, or recipients of Supplemental Security Income by an  
11 organization that actually accepts electronic benefits transfer under  
12 regulations issued by the United States Department of Agriculture  
13 although it is not necessary for the purchaser to use electronic benefits  
14 transfer to pay for the prepared food and food and food ingredients. ;

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

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

26 ~~(8) Fees and admissions charged for participants in any activity~~  
27 ~~provided by a nonprofit organization that is exempt from income tax under~~  
28 ~~section 501(c)(3) of the Internal Revenue Code of 1986, as amended, which~~  
29 ~~organization is affiliated with a national organization, primarily~~  
30 ~~dedicated to youth development and healthy living, and offers sports~~  
31 ~~instruction and sports leagues or sports events in multiple sports.~~

1           Sec. 25. Section 77-2704.24, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3           77-2704.24 (1) Sales and use taxes shall not be imposed on the gross  
4 receipts from the sale, lease, or rental of and the storage, use, or  
5 other consumption in this state of food or food ingredients except for  
6 prepared food and food sold through vending machines.

7           (2) For purposes of this section:

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

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

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

31           (d) Food sold through vending machines means food that is dispensed

1 from a machine or other mechanical device that accepts payment;

2 (e) Prepared food means:

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

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

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

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

14 (C) Food sold by a seller whose proper primary North American  
15 Industry Classification System classification is manufacturing in sector  
16 311, except subsector 3118, bakeries;

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

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

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

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

26 Sec. 26. Section 77-2715, Revised Statutes Cumulative Supplement,  
27 2016, is amended to read:

28 77-2715 (1) A tax is hereby imposed for each taxable year on the  
29 entire income of every resident individual and on the income of every  
30 nonresident individual and partial-year resident individual which is  
31 derived from sources within this state, except that any individual who



1 has additions to adjusted gross income pursuant to section 77-2716 of  
2 less than five thousand dollars shall not have an individual income tax  
3 liability after nonrefundable credits under the Nebraska Revenue Act of  
4 1967 that exceeds his or her individual income tax liability before  
5 credits under the Internal Revenue Code of 1986.

6 (2)(a) For taxable years beginning or deemed to begin before January  
7 1, 2014, the tax for each resident individual shall be a percentage of  
8 such individual's federal adjusted gross income as modified in sections  
9 77-2716 and 77-2716.01, plus a percentage of the federal alternative  
10 minimum tax and the federal tax on premature or lump-sum distributions  
11 from qualified retirement plans. The additional taxes shall be recomputed  
12 by (i) substituting Nebraska taxable income for federal taxable income,  
13 (ii) calculating what the federal alternative minimum tax would be on  
14 Nebraska taxable income and adjusting such calculations for any items  
15 which are reflected differently in the determination of federal taxable  
16 income, and (iii) applying Nebraska rates to the result. The federal  
17 credit for prior year minimum tax, after the recomputations required by  
18 the act, shall be allowed as a reduction in the income tax due.

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

27 (c) For taxable years beginning or deemed to begin on or after  
28 January 1, 2019, the tax for each resident individual shall be a  
29 percentage of such individual's federal adjusted gross income as modified  
30 in sections 77-2716 and 77-2716.01, plus a percentage of the federal  
31 alternative minimum tax and the federal tax on premature or lump-sum

1 distributions from qualified retirement plans. The additional taxes shall  
2 be recomputed by (i) substituting Nebraska taxable income for federal  
3 taxable income, (ii) calculating what the federal alternative minimum tax  
4 would be on Nebraska taxable income and adjusting such calculations for  
5 any items which are reflected differently in the determination of federal  
6 taxable income, and (iii) applying Nebraska rates to the result. The  
7 federal credit for prior year minimum tax, after the recomputations  
8 required by the act, shall be allowed as a reduction in the income tax  
9 due.

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

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

30 (5) A refund shall be allowed to the extent that the income tax paid  
31 by the individual, estate, or trust for the taxable year exceeds the

1 income tax payable, except that no refund shall be made in any amount  
2 less than two dollars.

3 Sec. 27. Section 77-2716, Revised Statutes Cumulative Supplement,  
4 2016, is amended to read:

5 77-2716 (1) The following adjustments to federal adjusted gross  
6 income or, for corporations and fiduciaries, federal taxable income shall  
7 be made for interest or dividends received:

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

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

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

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

30 (d) There shall be added that portion of the total dividends and  
31 other income received from a regulated investment company which is

1 attributable to obligations described in subdivision (c) of this  
2 subsection and excluded for federal income tax purposes as reported to  
3 the recipient by the regulated investment company; and

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

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

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

26 (3) There shall be subtracted from federal adjusted gross income for  
27 all taxable years beginning on or after January 1, 1987, the amount of  
28 any state income tax refund to the extent such refund was deducted under  
29 the Internal Revenue Code, was not allowed in the computation of the tax  
30 due under the Nebraska Revenue Act of 1967, and is included in federal  
31 adjusted gross income.

1           (4) For taxable years beginning or deemed to begin before January 1,  
2 2019, under the Internal Revenue Code of 1986, as amended, federal  
3 ~~Federal~~ adjusted gross income, or, for a fiduciary, federal taxable  
4 income shall be modified to exclude the portion of the income or loss  
5 received from a small business corporation with an election in effect  
6 under subchapter S of the Internal Revenue Code or from a limited  
7 liability company organized pursuant to the Nebraska Uniform Limited  
8 Liability Company Act that is not derived from or connected with Nebraska  
9 sources as determined in section 77-2734.01.

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

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

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

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

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

1 taxable income.

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

5 (8)(a) Federal adjusted gross income or, for corporations and  
6 fiduciaries, federal taxable income shall be reduced, to the extent  
7 included, by income from interest, earnings, and state contributions  
8 received from the Nebraska educational savings plan trust created in  
9 sections 85-1801 to 85-1814 and any account established under the  
10 achieving a better life experience program as provided in sections  
11 77-1401 to 77-1409.

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

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

30 (i) The amount resulting from the cancellation of a participation  
31 agreement refunded to the taxpayer as a participant in the Nebraska

1 educational savings plan trust to the extent previously deducted under  
2 subdivision (8)(b) of this section; and

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

7 (9)(a) For income tax returns filed after September 10, 2001, for  
8 taxable years beginning or deemed to begin before January 1, 2006, under  
9 the Internal Revenue Code of 1986, as amended, federal adjusted gross  
10 income or, for corporations and fiduciaries, federal taxable income shall  
11 be increased by eighty-five percent of any amount of any federal bonus  
12 depreciation received under the federal Job Creation and Worker  
13 Assistance Act of 2002 or the federal Jobs and Growth Tax Act of 2003,  
14 under section 168(k) or section 1400L of the Internal Revenue Code of  
15 1986, as amended, for assets placed in service after September 10, 2001,  
16 and before December 31, 2005.

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

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

28 (d) The amount of bonus depreciation added to federal adjusted gross  
29 income or, for corporations and fiduciaries, federal taxable income by  
30 this subsection shall be subtracted in a later taxable year. Twenty  
31 percent of the total amount of bonus depreciation added back by this

1 subsection for tax years beginning or deemed to begin before January 1,  
2 2003, under the Internal Revenue Code of 1986, as amended, may be  
3 subtracted in the first taxable year beginning or deemed to begin on or  
4 after January 1, 2005, under the Internal Revenue Code of 1986, as  
5 amended, and twenty percent in each of the next four following taxable  
6 years. Twenty percent of the total amount of bonus depreciation added  
7 back by this subsection for tax years beginning or deemed to begin on or  
8 after January 1, 2003, may be subtracted in the first taxable year  
9 beginning or deemed to begin on or after January 1, 2006, under the  
10 Internal Revenue Code of 1986, as amended, and twenty percent in each of  
11 the next four following taxable years.

12 (10) For taxable years beginning or deemed to begin on or after  
13 January 1, 2003, and before January 1, 2006, under the Internal Revenue  
14 Code of 1986, as amended, federal adjusted gross income or, for  
15 corporations and fiduciaries, federal taxable income shall be increased  
16 by the amount of any capital investment that is expensed under section  
17 179 of the Internal Revenue Code of 1986, as amended, that is in excess  
18 of twenty-five thousand dollars that is allowed under the federal Jobs  
19 and Growth Tax Act of 2003. Twenty percent of the total amount of  
20 expensing added back by this subsection for tax years beginning or deemed  
21 to begin on or after January 1, 2003, may be subtracted in the first  
22 taxable year beginning or deemed to begin on or after January 1, 2006,  
23 under the Internal Revenue Code of 1986, as amended, and twenty percent  
24 in each of the next four following tax years.

25 (11)(a) For taxable years beginning or deemed to begin before  
26 January 1, 2018, under the Internal Revenue Code of 1986, as amended,  
27 federal adjusted gross income shall be reduced by contributions, up to  
28 two thousand dollars per married filing jointly return or one thousand  
29 dollars for any other return, and any investment earnings made as a  
30 participant in the Nebraska long-term care savings plan under the Long-  
31 Term Care Savings Plan Act, to the extent not deducted for federal income



1 tax purposes.

2 (b) For taxable years beginning or deemed to begin before January 1,  
3 2018, under the Internal Revenue Code of 1986, as amended, federal  
4 adjusted gross income shall be increased by the withdrawals made as a  
5 participant in the Nebraska long-term care savings plan under the act by  
6 a person who is not a qualified individual or for any reason other than  
7 transfer of funds to a spouse, long-term care expenses, long-term care  
8 insurance premiums, or death of the participant, including withdrawals  
9 made by reason of cancellation of the participation agreement, to the  
10 extent previously deducted as a contribution or as investment earnings.

11 (12) There shall be added to federal adjusted gross income for  
12 individuals, estates, and trusts any amount taken as a credit for  
13 franchise tax paid by a financial institution under sections 77-3801 to  
14 77-3807 as allowed by subsection (5) of section 77-2715.07.

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

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

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

24 (14) For taxable years beginning or deemed to begin on or after  
25 January 1, 2015, under the Internal Revenue Code of 1986, as amended, an  
26 individual may make a one-time election within two calendar years after  
27 the date of his or her retirement from the military to exclude income  
28 received as a military retirement benefit by the individual to the extent  
29 included in federal adjusted gross income and as provided in this  
30 subsection. The individual may elect to exclude forty percent of his or  
31 her military retirement benefit income for seven consecutive taxable

1 years beginning with the year in which the election is made or may elect  
2 to exclude fifteen percent of his or her military retirement benefit  
3 income for all taxable years beginning with the year in which he or she  
4 turns sixty-seven years of age. For purposes of this subsection, military  
5 retirement benefit means retirement benefits that are periodic payments  
6 attributable to service in the uniformed services of the United States  
7 for personal services performed by an individual prior to his or her  
8 retirement.

9 Sec. 28. Section 77-2717, Revised Statutes Cumulative Supplement,  
10 2016, is amended to read:

11 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin  
12 before January 1, 2014, the tax imposed on all resident estates and  
13 trusts shall be a percentage of the federal taxable income of such  
14 estates and trusts as modified in section 77-2716, plus a percentage of  
15 the federal alternative minimum tax and the federal tax on premature or  
16 lump-sum distributions from qualified retirement plans. The additional  
17 taxes shall be recomputed by (A) substituting Nebraska taxable income for  
18 federal taxable income, (B) calculating what the federal alternative  
19 minimum tax would be on Nebraska taxable income and adjusting such  
20 calculations for any items which are reflected differently in the  
21 determination of federal taxable income, and (C) applying Nebraska rates  
22 to the result. The federal credit for prior year minimum tax, after the  
23 recomputations required by the Nebraska Revenue Act of 1967, and the  
24 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act  
25 and the Nebraska Advantage Research and Development Act shall be allowed  
26 as a reduction in the income tax due. A refundable income tax credit  
27 shall be allowed for all resident estates and trusts under the Angel  
28 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax  
29 Credit Act, and the Nebraska Advantage Research and Development Act. A  
30 nonrefundable income tax credit shall be allowed for all resident estates  
31 and trusts as provided in the New Markets Job Growth Investment Act.

1 (ii) For taxable years beginning or deemed to begin on or after  
2 January 1, 2014, and before January 1, 2019, the tax imposed on all  
3 resident estates and trusts shall be a percentage of the federal taxable  
4 income of such estates and trusts as modified in section 77-2716, plus a  
5 percentage of the federal tax on premature or lump-sum distributions from  
6 qualified retirement plans. The additional taxes shall be recomputed by  
7 substituting Nebraska taxable income for federal taxable income and  
8 applying Nebraska rates to the result. The credits provided in the  
9 Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska  
10 Advantage Research and Development Act shall be allowed as a reduction in  
11 the income tax due. A refundable income tax credit shall be allowed for  
12 all resident estates and trusts under the Angel Investment Tax Credit  
13 Act, the Nebraska Advantage Microenterprise Tax Credit Act, and the  
14 Nebraska Advantage Research and Development Act. A nonrefundable income  
15 tax credit shall be allowed for all resident estates and trusts as  
16 provided in the Nebraska Job Creation and Mainstreet Revitalization Act,  
17 the New Markets Job Growth Investment Act, the School Readiness Tax  
18 Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

19 (iii) For taxable years beginning or deemed to begin on or after  
20 January 1, 2019, the tax imposed on all resident estates and trusts shall  
21 be a percentage of the federal taxable income of such estates and trusts  
22 as modified in section 77-2716, plus a percentage of the federal  
23 alternative minimum tax and the federal tax on premature or lump-sum  
24 distributions from qualified retirement plans. The additional taxes shall  
25 be recomputed by (A) substituting Nebraska taxable income for federal  
26 taxable income, (B) calculating what the federal alternative minimum tax  
27 would be on Nebraska taxable income and adjusting such calculations for  
28 any items which are reflected differently in the determination of federal  
29 taxable income, and (C) applying Nebraska rates to the result. The  
30 federal credit for prior year minimum tax, after the recomputations  
31 required by the Nebraska Revenue Act of 1967, shall be allowed as a

1 reduction in the income tax due. A refundable income tax credit shall be  
2 allowed for all resident estates and trusts under the Angel Investment  
3 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,  
4 and the Nebraska Advantage Research and Development Act. A nonrefundable  
5 income tax credit shall be allowed for all resident estates and trusts as  
6 provided in the Nebraska Job Creation and Mainstreet Revitalization Act,  
7 the New Markets Job Growth Investment Act, the School Readiness Tax  
8 Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

9 (b) The tax imposed on all nonresident estates and trusts shall be  
10 the portion of the tax imposed on resident estates and trusts which is  
11 attributable to the income derived from sources within this state. The  
12 tax which is attributable to income derived from sources within this  
13 state shall be determined by multiplying the liability to this state for  
14 a resident estate or trust with the same total income by a fraction, the  
15 numerator of which is the nonresident estate's or trust's Nebraska income  
16 as determined by sections 77-2724 and 77-2725 and the denominator of  
17 which is its total federal income after first adjusting each by the  
18 amounts provided in section 77-2716. The federal credit for prior year  
19 minimum tax, after the recomputations required by the Nebraska Revenue  
20 Act of 1967, reduced by the percentage of the total income which is  
21 attributable to income from sources outside this state, and the credits  
22 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the  
23 Nebraska Advantage Research and Development Act shall be allowed as a  
24 reduction in the income tax due. A refundable income tax credit shall be  
25 allowed for all nonresident estates and trusts under the Angel Investment  
26 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,  
27 and the Nebraska Advantage Research and Development Act. A nonrefundable  
28 income tax credit shall be allowed for all nonresident estates and trusts  
29 as provided in the Nebraska Job Creation and Mainstreet Revitalization  
30 Act, the New Markets Job Growth Investment Act, the School Readiness Tax  
31 Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

1           (2) In all instances wherein a fiduciary income tax return is  
2 required under the provisions of the Internal Revenue Code, a Nebraska  
3 fiduciary return shall be filed, except that a fiduciary return shall not  
4 be required to be filed regarding a simple trust if all of the trust's  
5 beneficiaries are residents of the State of Nebraska, all of the trust's  
6 income is derived from sources in this state, and the trust has no  
7 federal tax liability. The fiduciary shall be responsible for making the  
8 return for the estate or trust for which he or she acts, whether the  
9 income be taxable to the estate or trust or to the beneficiaries thereof.  
10 The fiduciary shall include in the return a statement of each  
11 beneficiary's distributive share of net income when such income is  
12 taxable to such beneficiaries.

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

26           (4) If any beneficiary of such estate or trust is a nonresident  
27 during any part of the estate's or trust's taxable year, he or she shall  
28 file a Nebraska income tax return which shall include (a) in Nebraska  
29 adjusted gross income that portion of the estate's or trust's Nebraska  
30 income, as determined under sections 77-2724 and 77-2725, allocable to  
31 his or her interest in the estate or trust and (b) a reduction of the

1 Nebraska tax liability by his or her proportionate share of the credits  
2 as provided in the Angel Investment Tax Credit Act, the Nebraska  
3 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research  
4 and Development Act, the Nebraska Job Creation and Mainstreet  
5 Revitalization Act, the New Markets Job Growth Investment Act, the School  
6 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and  
7 section 77-27,238 and shall execute and forward to the fiduciary, on or  
8 before the original due date of the Nebraska fiduciary return, an  
9 agreement which states that he or she will file a Nebraska income tax  
10 return and pay income tax on all income derived from or connected with  
11 sources in this state, and such agreement shall be attached to the  
12 Nebraska fiduciary return for such taxable year.

13 (5) In the absence of the nonresident beneficiary's executed  
14 agreement being attached to the Nebraska fiduciary return, the estate or  
15 trust shall remit a portion of such beneficiary's income which was  
16 derived from or attributable to Nebraska sources with its Nebraska return  
17 for the taxable year. For taxable years beginning or deemed to begin  
18 before January 1, 2013, the amount of remittance, in such instance, shall  
19 be the highest individual income tax rate determined under section  
20 77-2715.02 multiplied by the nonresident beneficiary's share of the  
21 estate or trust income which was derived from or attributable to sources  
22 within this state. For taxable years beginning or deemed to begin on or  
23 after January 1, 2013, the amount of remittance, in such instance, shall  
24 be the highest individual income tax rate determined under section  
25 77-2715.03 multiplied by the nonresident beneficiary's share of the  
26 estate or trust income which was derived from or attributable to sources  
27 within this state. The amount remitted shall be allowed as a credit  
28 against the Nebraska income tax liability of the beneficiary.

29 (6) The Tax Commissioner may allow a nonresident beneficiary to not  
30 file a Nebraska income tax return if the nonresident beneficiary's only  
31 source of Nebraska income was his or her share of the estate's or trust's

1 income which was derived from or attributable to sources within this  
2 state, the nonresident did not file an agreement to file a Nebraska  
3 income tax return, and the estate or trust has remitted the amount  
4 required by subsection (5) of this section on behalf of such nonresident  
5 beneficiary. The amount remitted shall be retained in satisfaction of the  
6 Nebraska income tax liability of the nonresident beneficiary.

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

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

18 Sec. 29. Section 77-2734.01, Revised Statutes Cumulative Supplement,  
19 2016, is amended to read:

20 77-2734.01 (1)(a) For taxable years beginning or deemed to begin  
21 before January 1, 2019, under the Internal Revenue Code of 1986, as  
22 amended, residents ~~(1) Residents~~ of Nebraska who are shareholders of a  
23 small business corporation having an election in effect under subchapter  
24 S of the Internal Revenue Code or who are members of a limited liability  
25 company organized pursuant to the Nebraska Uniform Limited Liability  
26 Company Act shall include in their Nebraska taxable income, to the extent  
27 includable in federal gross income, their proportionate share of such  
28 corporation's or limited liability company's federal income adjusted  
29 pursuant to this section. Income or loss from such corporation or limited  
30 liability company conducting a business, trade, profession, or occupation  
31 shall be included in the Nebraska taxable income of a shareholder or

1 member who is a resident of this state to the extent of such  
2 shareholder's or member's proportionate share of the net income or loss  
3 from the conduct of such business, trade, profession, or occupation  
4 within this state, determined under subsection (2) of this section.

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

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

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

27 (a) If the small business corporation is a member of a unitary  
28 group, the small business corporation shall be deemed to be doing  
29 business within this state if any part of its income is derived from  
30 transactions with other members of the unitary group doing business  
31 within this state, and such corporation shall apportion its income by



1 using the apportionment factor determined for the entire unitary group,  
2 including the small business corporation, under sections 77-2734.05 to  
3 77-2734.15;

4 (b) If the small business corporation or limited liability company  
5 is not a member of a unitary group and is subject to tax in another  
6 state, it shall apportion its income under sections 77-2734.05 to  
7 77-2734.15; and

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

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

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

24 (5) For taxable years beginning or deemed to begin before January 1,  
25 2013, in the absence of the nonresident shareholder's or member's  
26 executed agreement being attached to the Nebraska return, the corporation  
27 or limited liability company shall remit with the return an amount equal  
28 to the highest individual income tax rate determined under section  
29 77-2715.02 multiplied by the nonresident shareholder's or member's share  
30 of the corporation's or limited liability company's income which was  
31 derived from or attributable to this state. For taxable years beginning

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

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

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

28 (8) For purposes of this section, any shareholder or member of the  
29 corporation or limited liability company that is a grantor trust of a  
30 nonresident shall be disregarded and this section shall apply as though  
31 the nonresident grantor was the shareholder or member.

1           Sec. 30. Section 77-27,132, Revised Statutes Supplement, 2017, is  
2 amended to read:

3           77-27,132 (1) There is hereby created a fund to be designated the  
4 Revenue Distribution Fund which shall be set apart and maintained by the  
5 Tax Commissioner. Revenue not required to be credited to the General Fund  
6 or any other specified fund may be credited to the Revenue Distribution  
7 Fund. Credits and refunds of such revenue shall be paid from the Revenue  
8 Distribution Fund. The balance of the amount credited, after credits and  
9 refunds, shall be allocated as provided by the statutes creating such  
10 revenue.

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

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

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

1 provided in subdivision (2)(e) of this section;

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

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

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

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

26 Sec. 31. Section 77-2912, Revised Statutes Cumulative Supplement,  
27 2016, is amended to read:

28 77-2912 There shall be no new applications filed under the Nebraska  
29 Job Creation and Mainstreet Revitalization Act after December 31, 2018  
30 ~~2022~~. All applications and all credits pending or approved before such  
31 date shall continue in full force and effect, except that no credits

1 shall be allocated under section 77-2905, issued under section 77-2906,  
2 or used on any tax return or similar filing after December 31, 2027.

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

5 77-3446 Base limitation means the budget limitation rate applicable  
6 to school districts and the limitation on growth of restricted funds  
7 applicable to other political subdivisions prior to any increases in the  
8 rate as a result of special actions taken by a supermajority of any  
9 governing board or of any exception allowed by law. The base limitation  
10 is two and one-half percent until adjusted, except that the base  
11 limitation for school districts for school fiscal year ~~years~~ 2017-18 ~~and~~  
12 ~~2018-19~~ is one and one-half percent. The base limitation may be adjusted  
13 annually by the Legislature to reflect changes in the prices of services  
14 and products used by school districts and political subdivisions.

15 Sec. 33. Section 79-1005.01, Revised Statutes Cumulative Supplement,  
16 2016, is amended to read:

17 79-1005.01 (1) Not later than November 15 of each year, the Tax  
18 Commissioner shall certify to the department for the preceding tax year  
19 the income tax liability of resident individuals for each local system.

20 (2) For school fiscal years prior to 2017-18, one hundred two  
21 million two hundred eighty-nine thousand eight hundred seventeen dollars  
22 which is equal to the amount appropriated to the School District Income  
23 Tax Fund for distribution in school fiscal year 1992-93 shall be  
24 disbursed as option payments as determined under section 79-1009 and as  
25 allocated income tax funds as determined in this section and sections  
26 79-1008.01, 79-1015.01, 79-1017.01, and 79-1018.01, except as provided in  
27 section 79-1008.02 for school fiscal years prior to school fiscal year  
28 2017-18. For school fiscal years prior to school fiscal year 2017-18,  
29 funds not distributed as allocated income tax funds due to minimum levy  
30 adjustments shall not increase the amount available to local systems for  
31 distribution as allocated income tax funds.

1           (3) Using the data certified by the Tax Commissioner pursuant to  
2 subsection (1) of this section, the department shall calculate the  
3 allocation percentage and each local system's allocated income tax funds.  
4 The allocation percentage shall be the amount stated in subsection (2) of  
5 this section minus the total amount paid for option students pursuant to  
6 section 79-1009, with the difference divided by the aggregate statewide  
7 income tax liability of all resident individuals certified pursuant to  
8 subsection (1) of this section. Each local system's allocated income tax  
9 funds shall be calculated by multiplying the allocation percentage times  
10 the local system's income tax liability certified pursuant to subsection  
11 (1) of this section.

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

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

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

23           79-1009 (1)(a) A district shall receive net option funding if (i)  
24 option students as defined in section 79-233 were actually enrolled in  
25 the school year immediately preceding the school year in which the aid is  
26 to be paid, (ii) option students as defined in such section will be  
27 enrolled in the school year in which the aid is to be paid as converted  
28 contract option students, or (iii) for the calculation of aid for school  
29 fiscal year 2017-18 for school districts that are members of a learning  
30 community, open enrollment students were actually enrolled for school  
31 year 2016-17 pursuant to section 79-2110.

1 (b) The determination of the net number of option students shall be  
2 based on (i) the number of students enrolled in the district as option  
3 students and the number of students residing in the district but enrolled  
4 in another district as option students as of the day of the fall  
5 membership count pursuant to section 79-528, for the school fiscal year  
6 immediately preceding the school fiscal year in which aid is to be paid,  
7 (ii) the number of option students that will be enrolled in the district  
8 or enrolled in another district as converted contract option students for  
9 the fiscal year in which the aid is to be paid, and (iii) for the  
10 calculation of aid for school fiscal year 2017-18 for school districts  
11 that are members of a learning community, the number of students enrolled  
12 in the district as open enrollment students and the number of students  
13 residing in the district but enrolled in another district as open  
14 enrollment students as of the day of the fall membership count pursuant  
15 to section 79-528 for school fiscal year 2016-17.

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

27 (2)(a) For all school fiscal years except school fiscal year ~~years~~  
28 ~~2017-18 and 2018-19~~, net option funding shall be the product of the net  
29 number of option students multiplied by the statewide average basic  
30 funding per formula student.

31 (b) For school fiscal year ~~years~~ 2017-18 ~~and 2018-19~~, net option

1 funding shall be the product of the net number of option students  
2 multiplied by ninety-five and five-tenths percent of the statewide  
3 average basic funding per formula student.

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

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

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

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

13 79-1015.01 (1) Local system formula resources shall include local  
14 effort rate yield which shall be computed as prescribed in this section.

15 (2) For each school fiscal year except school fiscal year ~~years~~  
16 ~~2017-18 and 2018-19~~: (a) For state aid certified pursuant to section  
17 79-1022, the local effort rate shall be the maximum levy, for the school  
18 fiscal year for which aid is being certified, authorized pursuant to  
19 subdivision (2)(a) of section 77-3442 less five cents; (b) for the final  
20 calculation of state aid pursuant to section 79-1065, the local effort  
21 rate shall be the rate which, when multiplied by the total adjusted  
22 valuation of all taxable property in local systems receiving equalization  
23 aid pursuant to the Tax Equity and Educational Opportunities Support Act,  
24 will produce the amount needed to support the total formula need of such  
25 local systems when added to state aid appropriated by the Legislature and  
26 other actual receipts of local systems described in section 79-1018.01;  
27 and (c) the local effort rate yield for such school fiscal years shall be  
28 determined by multiplying each local system's total adjusted valuation by  
29 the local effort rate.

30 (3) For school fiscal year ~~years~~ ~~2017-18 and 2018-19~~: (a) For state  
31 aid certified pursuant to section 79-1022, the local effort rate shall be



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

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

16 79-1022 (1) On or before May 1, 2018 ~~June 1, 2017~~, and on or before  
17 March 1 of each year thereafter, for each ensuing fiscal year, the  
18 department shall determine the amounts to be distributed to each local  
19 system and each district for the ensuing school fiscal year pursuant to  
20 the Tax Equity and Educational Opportunities Support Act and shall  
21 certify the amounts to the Director of Administrative Services, the  
22 Auditor of Public Accounts, each learning community for school fiscal  
23 years prior to school fiscal year 2017-18, and each district. Except as  
24 otherwise provided in this section, the amount to be distributed to each  
25 district from the amount certified for a local system shall be  
26 proportional based on the formula students attributed to each district in  
27 the local system. For school fiscal years prior to school fiscal year  
28 2017-18, the amount to be distributed to each district that is a member  
29 of a learning community from the amount certified for the local system  
30 shall be proportional based on the formula needs calculated for each  
31 district in the local system. On or before May 1, 2018 ~~June 1, 2017~~, and

1 on or before March 1 of each year thereafter, for each ensuing fiscal  
2 year, the department shall report the necessary funding level for the  
3 ensuing school fiscal year to the Governor, the Appropriations Committee  
4 of the Legislature, and the Education Committee of the Legislature. The  
5 report submitted to the committees of the Legislature shall be submitted  
6 electronically. Except as otherwise provided in this subsection,  
7 certified state aid amounts, including adjustments pursuant to section  
8 79-1065.02, shall be shown as budgeted non-property-tax receipts and  
9 deducted prior to calculating the property tax request in the district's  
10 general fund budget statement as provided to the Auditor of Public  
11 Accounts pursuant to section 79-1024.

12 (2) Except as provided in this subsection, subsection (8) of section  
13 79-1016, and sections 79-1005, 79-1033, and 79-1065.02, the amounts  
14 certified pursuant to subsection (1) of this section shall be distributed  
15 in ten as nearly as possible equal payments on the last business day of  
16 each month beginning in September of each ensuing school fiscal year and  
17 ending in June of the following year, except that when a school district  
18 is to receive a monthly payment of less than one thousand dollars, such  
19 payment shall be one lump-sum payment on the last business day of  
20 December during the ensuing school fiscal year.

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

23 79-1022.02 Notwithstanding any other provision of law, any  
24 certification of state aid pursuant to section 79-1022, certification of  
25 budget authority pursuant to section 79-1023, and certification of  
26 applicable allowable reserve percentages pursuant to section 79-1027  
27 completed prior to the operative date of this section February 16, 2017,  
28 for school fiscal year 2018-19 ~~2017-18~~ is null and void.

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

31 79-1023 (1) On or before May 1, 2018 ~~June 1, 2017,~~ and on or before

1 March 1 of each year thereafter, the department shall determine and  
2 certify to each school district budget authority for the general fund  
3 budget of expenditures for the ensuing school fiscal year. On or before  
4 May 1, 2018, the department shall redetermine and recertify to each  
5 school district budget authority for the general fund budget of  
6 expenditures for the 2017-18 school fiscal year.

7 (2) Except as provided in sections 79-1028.01, 79-1029, 79-1030, and  
8 81-829.51, each school district shall have budget authority for the  
9 general fund budget of expenditures equal to the greater of (a) the  
10 general fund budget of expenditures for the immediately preceding school  
11 fiscal year minus exclusions pursuant to subsection (1) of section  
12 79-1028.01 for such school fiscal year with the difference increased by  
13 the basic allowable growth rate for the school fiscal year for which  
14 budget authority is being calculated, (b) the general fund budget of  
15 expenditures for the immediately preceding school fiscal year minus  
16 exclusions pursuant to subsection (1) of section 79-1028.01 for such  
17 school fiscal year with the difference increased by an amount equal to  
18 any student growth adjustment calculated for the school fiscal year for  
19 which budget authority is being calculated, or (c) one hundred ten  
20 percent of formula need for the school fiscal year for which budget  
21 authority is being calculated minus the special education budget of  
22 expenditures as filed on the school district budget statement on or  
23 before September 20 for the immediately preceding school fiscal year,  
24 which special education budget of expenditures is increased by the basic  
25 allowable growth rate for the school fiscal year for which budget  
26 authority is being calculated.

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

1 to such student growth adjustment.

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

4 79-1025 (1) Except as otherwise provided in this section, the The  
5 basic allowable growth rate for general fund expenditures other than  
6 expenditures for special education shall be the base limitation  
7 established under section 77-3446.

8 (2) For purposes of calculating the cost growth factor pursuant to  
9 section 79-1007.10 for state aid calculated for school fiscal year  
10 2018-19 and recalculating school district budget authority for the  
11 general fund budget of expenditures pursuant to section 79-1023 for  
12 school fiscal year 2017-18, the basic allowable growth rate for school  
13 fiscal year 2017-18 is two and one-half percent.

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

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

21 79-1027 No district shall adopt a budget, which includes total  
22 requirements of depreciation funds, necessary employee benefit fund cash  
23 reserves, and necessary general fund cash reserves, exceeding the  
24 applicable allowable reserve percentages of total general fund budget of  
25 expenditures as specified in the schedule set forth in this section.

26	Average daily	Allowable
27	membership of	reserve
28	district	percentage
29	0 - 471	45
30	471.01 - 3,044	35
31	3,044.01 - 10,000	25



1 diverse and growing needs of students across the state;

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

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

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

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

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

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

15 (4) It is the intent of the Legislature to appropriate at least two  
16 hundred thousand dollars to the department to carry out this section.

17 Sec. 43. Sections 10, 19, 20, 22, 23, 24, 25, 30, 45, and 47 of  
18 this act become operative on October 1, 2018. Sections 1, 2, 3, 4, 5, 6,  
19 7, 8, 16, 17, 18, 26, 27, 28, 29, 46, and 48 of this act become operative  
20 on January 1, 2019. The other sections of this act become operative on  
21 their effective date.

22 Sec. 44. Original sections 77-2701.32 and 79-1025, Reissue Revised  
23 Statutes of Nebraska, sections 77-202, 77-693, 77-801, 77-1116, 77-1238,  
24 77-1248, 77-2912, and 79-1005.01, Revised Statutes Cumulative Supplement,  
25 2016, and sections 77-3446, 79-1009, 79-1015.01, 79-1022, 79-1022.02,  
26 79-1023, 79-1027, and 79-1031.01, Revised Statutes Supplement, 2017, are  
27 repealed.

28 Sec. 45. Original section 77-2701.02, Reissue Revised Statutes of  
29 Nebraska, sections 77-382, 77-2701.16, 77-2701.35, and 77-2704.24,  
30 Revised Statutes Cumulative Supplement, 2016, and sections 77-2703,  
31 77-2704.10, and 77-27,132, Revised Statutes Supplement, 2017, are

1 repealed.

2       Sec. 46. Original sections 77-2602, 77-2715, 77-2716, 77-2717, and  
3 77-2734.01, Revised Statutes Cumulative Supplement, 2016, and section  
4 77-2701, Revised Statutes Supplement, 2017, are repealed.

5       Sec. 47. The following sections are outright repealed: Sections  
6 77-2704.07, 77-2704.14, 77-2704.52 and 77-2704.55, Reissue Revised  
7 Statutes of Nebraska, and sections 77-2704.56, 77-2704.65, and  
8 77-2704.67, Revised Statutes Cumulative Supplement, 2016.

9       Sec. 48. The following sections are outright repealed: Section  
10 77-2715.09, Reissue Revised Statutes of Nebraska, and section 77-2715.08,  
11 Revised Statutes Cumulative Supplement, 2016.

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