

LEGISLATIVE BILL 968

Approved by the Governor April 6, 2006

Introduced by Redfield, 12; Erdman, 47; Foley, 29; Friend, 10; Combs, 32; Preister, 5; Smith, 48; Mines, 18; Stuhr, 24

AN ACT relating to revenue and taxation; to amend sections 77-2715.02, 77-2716.03, 77-3501.01, and 77-3505.02, Reissue Revised Statutes of Nebraska, sections 77-2704.55, 77-2716.01, and 77-5023, Revised Statutes Cumulative Supplement, 2004, and sections 66-1345.04, 77-201, 77-2701, 77-2701.04, 77-2715.07, 77-2716, 77-3442, and 79-1016, Revised Statutes Supplement, 2005; to change intent relating to funding of the Ethanol Production Incentive Cash Fund; to change taxable valuation provisions relating to agricultural land and horticultural land; to exempt housing agencies from certain sales and use taxes; to change provisions relating to the sales and use tax on contractor labor; to change income tax rate schedules; to provide an income tax credit as prescribed; to change provisions relating to income tax income and liability adjustments and personal exemptions; to change property tax levy limitations; to change provisions relating to homestead exemptions; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 66-1345.04, Revised Statutes Supplement, 2005, is amended to read:

66-1345.04 (1) The State Treasurer shall transfer from the General Fund to the Ethanol Production Incentive Cash Fund, on or before the end of each of fiscal years 1995-96 and 1996-97, \$8,000,000 per fiscal year.

(2) It is the intent of the Legislature that the following General Fund amounts be appropriated to the Ethanol Production Incentive Cash Fund in each of the following years:

(a) For each of fiscal years 1997-98 and 1998-99, \$7,000,000 per fiscal year;

(b) For fiscal year 1999-2000, \$6,000,000;

(c) For fiscal year 2000-01, \$5,000,000;

(d) For fiscal year 2001-02 and for each of fiscal years 2003-04 through 2006-07, \$1,500,000;

(e) For each of fiscal years 2005-06 and 2006-07, \$2,500,000 in addition to the amount in subdivision (2)(d) of this section;

(f) For fiscal year 2007-08, \$5,500,000; and

(g) For each of fiscal years 2008-09 through 2011-12, \$2,500,000; and -

(h) For each of fiscal years 2005-06 and 2006-07, \$5,000,000 in addition to the other amounts in this section.

Sec. 2. Section 77-201, Revised Statutes Supplement, 2005, is amended to read:

77-201 (1) Except as provided in subsections (2) through (4) of this section, all real property in this state, not expressly exempt therefrom, shall be subject to taxation and shall be valued at its actual value.

(2) Agricultural land and horticultural land as defined in section 77-1359 shall constitute a separate and distinct class of property for purposes of property taxation, shall be subject to taxation, unless expressly exempt from taxation, and shall be valued at ~~eighty~~ seventy-five percent of its actual value.

(3) Agricultural land and horticultural land actively devoted to agricultural or horticultural purposes which has value for purposes other than agricultural or horticultural uses and which meets the qualifications for special valuation under section 77-1344 shall constitute a separate and distinct class of property for purposes of property taxation, shall be subject to taxation, and shall be valued for taxation at ~~eighty~~ seventy-five percent of its special value as defined in section 77-1343 and at ~~eighty~~ seventy-five percent of its recapture value as defined in section 77-1343 when the land is disqualified for special valuation under section 77-1347.

(4) Commencing January 1, 2006, historically significant real property which ~~meet~~ meets the qualifications for historic rehabilitation valuation under sections 77-1385 to 77-1394 shall be valued for taxation as provided in such sections.

(5) Tangible personal property, not including motor vehicles registered for operation on the highways of this state, shall constitute a

separate and distinct class of property for purposes of property taxation, shall be subject to taxation, unless expressly exempt from taxation, and shall be valued at its net book value. Tangible personal property transferred as a gift or devise or as part of a transaction which is not a purchase shall be subject to taxation based upon the date the property was acquired by the previous owner and at the previous owner's Nebraska adjusted basis. Tangible personal property acquired as replacement property for converted property shall be subject to taxation based upon the date the converted property was acquired and at the Nebraska adjusted basis of the converted property unless insurance proceeds are payable by reason of the conversion. For purposes of this subsection, (a) converted property means tangible personal property which is compulsorily or involuntarily converted as a result of its destruction in whole or in part, theft, seizure, requisition, or condemnation, or the threat or imminence thereof, and no gain or loss is recognized for federal or state income tax purposes by the holder of the property as a result of the conversion and (b) replacement property means tangible personal property acquired within two years after the close of the calendar year in which tangible personal property was converted and which is, except for date of construction or manufacture, substantially the same as the converted property.

Sec. 3. Section 77-2701, Revised Statutes Supplement, 2005, is amended to read:

77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, and 77-27,228 to 77-27,234 and section 5 of this act shall be known and may be cited as the Nebraska Revenue Act of 1967.

Sec. 4. Section 77-2701.04, Revised Statutes Supplement, 2005, is amended to read:

77-2701.04 For purposes of sections 77-2701.04 to 77-2713 and section 5 of this act, unless the context otherwise requires, the definitions found in sections 77-2701.05 to 77-2701.47 shall be used.

Sec. 5. (1) Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption of purchases of building materials and construction services by a housing agency as defined in section 71-1575.

(2) The appointment of purchasing agents shall be recognized for the purpose of altering the status of the construction contractor as the ultimate consumer of building materials which are physically annexed to the structure and which subsequently belong to the housing agency. The appointment of purchasing agents shall be in writing and occur prior to having any building materials annexed to real estate in the construction, improvement, or repair. The contractor who has been appointed as a purchasing agent may apply for a refund or use as a credit against a future tax liability the tax paid on inventory items annexed to real estate in the construction, improvement, or repair of a project for the housing agency.

(3) Any housing agency which enters into a contract of construction, improvement, or repair upon property annexed to real estate without first issuing a purchasing agent authorization to a contractor or repairperson prior to the building materials being annexed to real estate in the project may apply to the Tax Commissioner for a refund of any sales and use tax paid by the contractor or repairperson on the building materials physically annexed to real estate in the construction, improvement, or repair.

Sec. 6. Section 77-2704.55, Revised Statutes Cumulative Supplement, 2004, is amended to read:

77-2704.55 (1) Sales and use taxes shall not be imposed on the gross receipts for the labor of a contractor as determined in subdivision (10)(e) of section 77-2701.16 purchased in connection with the following types of construction projects:

(a) The first or original construction of a new structure, building, or unit;

~~(b) The addition of an entire room or floor to any existing building;~~

~~(c) The completion of an unfinished portion of an existing structure;~~

~~(d) The restoration, reconstruction, or replacement of a structure damaged or destroyed by fire, flood, tornado, lightning, explosion, ice storm, or natural disaster;~~

~~(e) (b) The construction, repair, or annexation of any structure used for the generation, transmission, or distribution of electricity; or~~

~~(f) (c) The major addition, remodeling, restoration, repair, or renovation of an existing structure or building or a unit of an existing building described in subdivision (2)(c)(ii) of this section. For a project on a building other than an existing dwelling designed for occupancy by one family or a duplex designed for occupancy by two families, the exemption~~

granted in this subdivision shall be conditioned upon the taxpayer seeking approval from the Department of Revenue that the project, if substantially completed according to designs, plans, specifications, or other materials submitted with the application to the department, meets the requirements for a major renovation under subdivision (2)(c)(ii) of this section and the construction services will be exempt from tax. For a project on an existing dwelling designed for occupancy by one family or a duplex designed for occupancy by two families, the exemption may be granted either upon approval by the department that the project, if substantially completed according to plans submitted with the application to the department, meets the requirements for a major renovation under subdivision (2)(c)(ii) of this section or notice from the contractor to the department of the nature of the project and an explanation of why the renovation will qualify for the exemption. Approval may be granted in accordance with the procedures set forth in subsection (4) of this section that is a single construction project of any type that costs at least fifty percent of the current value of the existing structure or building or unit of an existing building; or

(d) Commencing July 1, 2006, construction services on dwellings designed for occupancy by one family or duplexes designed for occupancy by two families.

(2) For purposes of this section:

(a) Building means any freestanding structure annexed to land, enclosed within a roof and exterior walls, regardless of whether enclosed on all sides;

(b) Current value means the current assessed value of the structure, building, or unit as determined in the records of the county assessor. If the county assessor has no current assessed value, the current value shall be the market value of the structure, building, or unit as shown by an appraisal of the property that has been performed by a licensed appraiser within six months prior to commencement of the construction project;

(c) Dwelling means a residential structure. Dwelling includes an attached or detached garage. Dwelling does not include fences, landscaping, retaining walls, storage buildings, or other structures that are not designed for human habitation;

(d) Owner-occupied residential unit means a residential unit in a dwelling complex containing three or more units actually occupied by a natural person who is the owner of record or who has a life tenancy therein at the time the construction or repair work is performed;

(b) Fixture means a piece of equipment that must be annexed to the building or structure in order to properly function, yet remains identifiable as a separate item;

(e) Major renovation of an existing building or a unit of an existing building means a single renovation project that:

(i) Increases the market value of the building or unit by at least one hundred percent; or

(ii) Entails the renovation of no less than seventy-five percent of the square feet of the building or unit;

(d) Renovation means the rehabilitation, replacement, or reconfiguration of walls or fixtures. Mere replacement of floor coverings does not constitute renovation for purposes of subdivision (1)(f) of this section;

(e) Structure means any construction composed of building materials arranged and fitted together in some way. Structure includes, but is not limited to, streets and roadways, street lighting, and sewers and waterlines; and

(f) Unit means a physical portion of a building designated for separate ownership, rental, or occupancy. If a unit of a building is to be renovated and the current value is known only for the building, the current value for the building shall be apportioned to the unit based on square footage of floor space.

(3) Construction services performed on an owner-occupied residential unit shall be subject to tax, but commencing July 1, 2006, the owner shall be entitled to a refund of any sales and use taxes paid by the owner on construction services pursuant to this subsection. A taxpayer shall be entitled to a refund of any sales tax paid to a contractor on the gross receipts from the labor of a contractor for any major renovation described in subdivision (2)(c)(i) of this section or, if prior approval of the renovation pursuant to this section has not been obtained, for any major renovation described in subdivision (2)(c)(ii) of this section on the gross receipts for the labor of a contractor for any major addition, remodeling, restoration, repair, or renovation described in this section. The refund granted in this section subsection shall be conditioned upon filing a claim for the refund on a form developed by the Tax Commissioner. The requirements imposed by the

Tax Commissioner shall be related to ensuring that the project qualifies for the refund. Any information received pursuant to the requirements of this subsection may be disclosed to any tax official in this state. Any taxpayer who provides false information on the forms required by the Tax Commissioner for purposes of this subsection shall be subject to the penalties provided in subsection (8) of section 77-2705.

(4) (a) Until July 1, 2007, a taxpayer may seek prior approval from the Department of Revenue that the project, if substantially completed according to designs and specifications submitted with the application to the department, meets the requirements for a major addition, remodeling, restoration, repair, or renovation under this section and the labor performed in annexing the building materials to real estate will be exempt from tax. A taxpayer may apply to the Tax Commissioner for approval that a proposed construction project meets the requirements for a major renovation described in subdivision (2)(c)(ii) of this section.

(b) The approval granted in this ~~section~~ subsection shall be conditioned upon filing an application on a form developed by the Tax Commissioner with an application fee of five hundred dollars. The application fee shall be remitted to the State Treasurer for credit to the Department of Revenue Contractor Enforcement Fund. The application shall be supported by designs, specifications, contract amount, and the current value. plans, specifications, or other materials, signed by a licensed architect or engineer, that indicate the extent of the renovation, the work that is planned to be performed, and the square footage of the floor space that is to be renovated. Any requirements imposed by the Tax Commissioner shall be related to ensuring that the project qualifies for the exemption so long as the project is completed in substantial conformity with the designs, plans, and specifications, or other materials submitted with the application.

(c) The Tax Commissioner shall approve or deny the application within sixty business days after receiving the application. Within sixty days after the completion of the renovation, a licensed architect or engineer shall certify to the Tax Commissioner that the renovation was completed in substantial conformity with the designs, plans, and specifications, or other materials submitted with the application or shall amend the original application to describe the project as actually completed.

(d) Any information received pursuant to the requirements of this subsection may be disclosed to any tax official in this state. Any person who provides false information on the forms or plans, designs and specifications, and materials required by the Tax Commissioner for purposes of this subsection shall be subject to the penalties provided in subsection (8) of section 77-2705.

(5) The provisions of this section shall not excuse any person from the obligation to collect sales tax on retail sales of property not annexed to real estate or from the obligation to pay the sales tax or remit the use tax on tools, services, and other materials consumed that are not annexed to real estate.

(6) The Department of Revenue Contractor Enforcement Fund is created. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 7. Section 77-2715.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-2715.02 (1) Whenever the primary rate is changed by the Legislature under section 77-2715.01, the Tax Commissioner shall update the rate schedules required in subsection (2) of this section to reflect the new primary rate and shall publish such updated schedules.

(2) The following rate schedules are hereby established for the Nebraska individual income tax and shall be in the following form:

(a) The income amounts for columns A and E shall be:

(i) \$0, \$2,400, \$17,000, and \$26,500, \$2,400, \$17,500, and \$27,000, for single returns;

(ii) \$0, \$4,000, \$30,000, and \$46,750, \$4,000, \$31,000, and \$50,000, for married filing joint returns;

(iii) \$0, \$3,800, \$24,000, and \$35,000, \$3,800, \$25,000, and \$35,000, for head-of-household returns;

(iv) \$0, \$2,000, \$15,000, and \$23,375, \$2,000, \$15,500, and \$25,000, for married filing separate returns; and

(v) \$0, \$500, \$4,700, and \$15,150, for estates and trusts;

(b) The amount in column C shall be the total amount of the tax imposed on income less than the amount in column A;

(c) The amount in column D shall be the rate on the income in excess of the amount in column E;

(d) For taxable years beginning or deemed to begin before January 1, 2003, under the Internal Revenue Code of 1986, as amended, the primary rate set by the Legislature shall be multiplied by the following factors to compute the tax rates for column D. The factors for the brackets, from lowest to highest bracket, shall be .6784, .9432, 1.3541, and 1.8054;

(e) For taxable years beginning or deemed to begin on or after January 1, 2003, under the Internal Revenue Code of 1986, as amended, the primary rate set by the Legislature shall be multiplied by the following factors to compute the tax rates for column D. The factors for the brackets, from lowest to highest bracket, shall be .6932, .9646, 1.3846, and 1.848;

(f) The amounts for column C shall be rounded to the nearest dollar, and the amounts in column D shall be rounded to hundredths of one percent; and

(g) One rate schedule shall be established for each federal filing status.

(3) The tax rate schedules shall use the format set forth in this subsection.

| | | | | |
|----------------|---------|-----|------|-------------|
| A | B | C | D | E |
| Taxable income | but not | pay | plus | of the |
| over | over | | | amount over |

(4) The tax rate applied to other federal taxes included in the computation of the Nebraska individual income tax shall be eight times the primary rate.

(5) The Tax Commissioner shall prepare, from the rate schedules, tax tables which can be used by a majority of the taxpayers to determine their Nebraska tax liability. The design of the tax tables shall be determined by the Tax Commissioner. The size of the tax table brackets may change as the level of income changes. The difference in tax between two tax table brackets shall not exceed fifteen dollars. The Tax Commissioner may build the personal exemption credit and standard deduction amounts into the tax tables.

(6) The Tax Commissioner may require by rule and regulation that all taxpayers shall use the tax tables if their income is less than the maximum income included in the tax tables.

Sec. 8. Section 77-2715.07, Revised Statutes Supplement, 2005, is amended to read:

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

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

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

(2) There shall be allowed to qualified resident individuals against the income tax imposed by the Nebraska Revenue Act of 1967:

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

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

(c) A refundable credit for individuals who qualify for an income tax credit under the Beginning Farmer Tax Credit Act for all taxable years beginning or deemed to begin on or after January 1, 2001, under the Internal Revenue Code of 1986, as amended; ~~and~~

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

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

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

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

(b) A credit for contributions to certified community betterment

programs as provided in the Community Development Assistance Act. Each partner, each shareholder of an electing subchapter S corporation, each beneficiary of an estate or trust, or each member of a limited liability company shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, subchapter S corporation, estate, trust, or limited liability company income.

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

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

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

(5) There shall be allowed to all business firms as a credit against the income tax imposed by the Nebraska Revenue Act of 1967 a credit as provided in section 77-27,222.

Sec. 9. Section 77-2716, Revised Statutes Supplement, 2005, is amended to read:

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

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

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

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

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

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

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

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

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

(4) Federal adjusted gross income, or, for a fiduciary, federal taxable income shall be modified to exclude the portion of the income or loss received from a small business corporation with an election in effect under

subchapter S of the Internal Revenue Code or from a limited liability company organized pursuant to the Limited Liability Company Act that is not derived from or connected with Nebraska sources as determined in section 77-2734.01.

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

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

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

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

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

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

(8)(a) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced, to the extent included, by income from interest, earnings, and state contributions received from the Nebraska educational savings plan trust created in sections 85-1801 to 85-1814.

(b) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced, to the extent not deducted for federal income tax purposes, by the amount of any gift, grant, or donation made to the Nebraska educational savings plan trust for deposit in the endowment fund of the trust.

(c) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced by any contributions as a participant in the Nebraska educational savings plan trust, to the extent not deducted for federal income tax purposes, but not to exceed five hundred dollars per married filing separate return or one thousand dollars for any other return.

(d) Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be increased by the amount resulting from the cancellation of a participation agreement refunded to the taxpayer as a participant in the Nebraska educational savings plan trust to the extent previously deducted as a contribution to the trust.

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

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

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

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

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

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

Sec. 10. Section 77-2716.01, Revised Statutes Cumulative Supplement, 2004, is amended to read:

77-2716.01 (1) Every individual shall be allowed to subtract from his or her income tax liability an amount for personal exemptions. The amount allowed to be subtracted shall be the credit amount for the year as provided in this section multiplied by the number of exemptions allowed on the federal return. For tax year 1993, the credit amount shall be sixty-five dollars; for tax year 1994, the credit amount shall be sixty-nine dollars; for tax year 1995, the credit amount shall be sixty-nine dollars; for tax year 1996, the credit amount shall be seventy-two dollars; for tax year 1997, the credit amount shall be eighty-six dollars; for tax year 1998, the credit amount shall be eighty-eight dollars; for tax year 1999, and each year thereafter, the credit amount shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as amended. The eighty-eight-dollar credit amount shall be adjusted for cumulative inflation since 1998. If any credit amount is not an even dollar amount, the amount shall be rounded to the nearest dollar. ~~The amount allowed for each personal exemption shall be reduced, but not below zero, by five dollars for each five thousand dollars, or portion thereof, that federal adjusted gross income exceeds ninety thousand dollars for married filing joint returns, fifty-four thousand dollars for single returns, seventy-five thousand dollars for head-of-household returns, and for married filing separate returns, one-half the amount stated in this subsection for married filing joint returns.~~ For nonresident individuals and partial-year resident individuals, the personal exemption credit shall be subtracted as specified in subsection (3) of section 77-2715. ~~For tax year 1994 and each tax year thereafter, the income levels stated in this subsection shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as amended. If any income level in this subsection is not a multiple of one thousand dollars, the amount shall be rounded to the next highest multiple of one thousand dollars.~~

(2) (a) For tax years beginning or deemed to begin before January 1, 2003, under the Internal Revenue Code of 1986, as amended, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction equal to the federal standard deduction for the filing status used on the federal return except as the amount is adjusted under section 77-2716.03.

(b) For tax years beginning or deemed to begin on or after January 1, 2003, and before January 1, 2004, under the Internal Revenue Code of 1986, as amended, every individual who did not itemize deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income a standard deduction based on the filing status used on the federal return except as the amount is adjusted under section 77-2716.03. The standard deduction shall be the smaller of the federal standard deduction actually allowed or (i) for single taxpayers four thousand seven hundred fifty dollars, (ii) for head of household taxpayers seven thousand dollars, (iii) for married filing jointly taxpayers seven thousand nine hundred fifty dollars, and (iv) for married filing separately taxpayers three thousand nine hundred seventy-five dollars. Taxpayers who are allowed additional federal standard deduction amounts because of age or blindness shall be allowed an increase in the Nebraska standard deduction for each additional amount allowed on the federal return. The additional amounts shall be for married taxpayers,

nine hundred fifty dollars, and for single or head of household taxpayers, one thousand one hundred fifty dollars.

(c) For tax years beginning or deemed to begin on or after January 1, 2004, the standard deduction amounts, including the additional standard deduction amounts, in subdivision (2)(b) of this section shall be adjusted for inflation by the method provided in section 151 of the Internal Revenue Code of 1986, as amended. If any amount is not a multiple of ten dollars, the amount shall be rounded to the next highest multiple of ten dollars, except that the standard deduction for the married filing separately taxpayers may be a multiple of five dollars.

(3) Every individual who itemized deductions on his or her federal return shall be allowed to subtract from federal adjusted gross income the greater of either the standard deduction allowed in subsection (2) of this section or ~~the amount before the federal disallowance of his or her federal itemized deductions, except for the amount deducted on the federal return for state or local income taxes paid and the amount of any adjustment required under section 77-2716.03 included in federal itemized deductions before any federal disallowance.~~

Sec. 11. Section 77-2716.03, Reissue Revised Statutes of Nebraska, is amended to read:

77-2716.03 (1) Any taxpayer whose federal adjusted gross income is larger than the threshold amount determined under section 68 of the Internal Revenue Code of 1986, as amended, for the disallowance of itemized deductions shall calculate the amount of the excess, and make the following adjustments.

~~(2) The amount of the federal standard deduction actually allowed shall be reduced by one dollar for every ten dollars of the excess calculated in subsection (1) of this section. The standard deduction shall not be reduced below zero.~~

~~(3) For the purposes of calculating the adjustment in subsection (4) of this section, the following definitions shall be used:~~

~~(a) Protected deductions shall be those itemized deductions excepted from the federal disallowance under section 68 of the Internal Revenue Code of 1986, as amended; and~~

~~(b) Disallowable deductions shall be all itemized deductions other than (i) protected deductions, (ii) the deduction for state and local income taxes, and (iii) charitable deductions.~~

~~(4) The amount of itemized deductions shall be reduced to the sum of the protected deductions plus charitable deductions plus the greater of:~~

~~(a) Twenty percent of the disallowable deductions; or~~

~~(b) The disallowable deductions reduced by an amount calculated as one dollar for every ten dollars of the excess calculated in subsection (1) of this section.~~

~~(5) After making the adjustments provided for in subsections (2) and (4) of this section, the (2) A taxpayer's tax liability shall be increased by an amount determined under this subsection. The amount shall be calculated by multiplying the maximum individual tax rate by ten percent of the excess calculated in subsection (1) of this section and subtracting the amount of the tax from the tax tables on ten percent of the excess from the result. The difference shall be the increase in the tax liability. If taxable income is less than ten percent of the excess, the calculation in this subsection shall be made using taxable income.~~

Sec. 12. Section 77-3442, Revised Statutes Supplement, 2005, is amended to read:

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

(2)(a) Except as provided in subdivision (2)(b) of this section, school districts and multiple-district school systems may levy a maximum levy of ~~(i) one dollar and five cents per one hundred dollars of taxable valuation of property subject to the levy, for fiscal years 2003-04 through 2007-08 and (ii) one dollar per one hundred dollars of taxable valuation of property subject to the levy for all fiscal years except fiscal years 2003-04 through 2007-08.~~ Excluded from this limitation are amounts levied to pay for sums agreed to be paid by a school district to certificated employees in exchange for a voluntary termination of employment and amounts levied to pay for special building funds and sinking funds established for projects commenced prior to April 1, 1996, for construction, expansion, or alteration of school district buildings. For purposes of this subsection, commenced means any action taken by the school board on the record which commits the board to expend district funds in planning, constructing, or carrying out the project.

(b) Federal aid school districts may exceed the maximum levy prescribed by subdivision (2)(a) of this section only to the extent necessary

to qualify to receive federal aid pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001. For purposes of this subdivision, federal aid school district means any school district which receives ten percent or more of the revenue for its general fund budget from federal government sources pursuant to Title VIII of Public Law 103-382, as such title existed on September 1, 2001.

(c) For school fiscal year 2002-03 through school fiscal year 2007-08, school districts and multiple-district school systems may, upon a three-fourths majority vote of the school board of the school district, the board of the unified system, or the school board of the high school district of the multiple-district school system that is not a unified system, exceed the maximum levy prescribed by subdivision (2)(a) of this section in an amount equal to the net difference between the amount of state aid that would have been provided under the Tax Equity and Educational Opportunities Support Act without the temporary aid adjustment factor and if subdivision (3) of section 79-1007.02 and subsections (2) and (5) of section 79-1008.01 had applied for the ensuing school fiscal year for the school district or multiple-district school system and the amount provided with the temporary aid adjustment factor and if subdivision (4) of section 79-1007.02 and subsections (3) and (6) of section 79-1008.01 had applied. The State Department of Education shall certify to the school districts and multiple-district school systems the amount by which the maximum levy may be exceeded for the next school fiscal year pursuant to subdivision (2)(c) of this section on or before February 15 for school fiscal years 2004-05 through 2007-08.

(3) Community colleges may levy a maximum levy on each one hundred dollars of taxable property subject to the levy of seven cents, plus amounts allowed under subsection (7) of section 85-1536.01, except that any community college whose valuation per reported aid equivalent student as defined in section 85-1503 was less than eighty-two percent of the average valuation per statewide reimbursable reported aid equivalent total as defined in section 85-1503 for all community colleges for fiscal year 1997-98 may levy up to an additional one-half cent for each of fiscal years 2005-06 and 2006-07 upon a three-fourths majority vote of the board.

(4) Natural resources districts may levy a maximum levy of four and one-half cents per one hundred dollars of taxable valuation of property subject to the levy. Natural resources districts shall also have the power and authority to levy a tax equal to the dollar amount by which their restricted funds budgeted to administer and implement ground water management activities and integrated management activities under the Nebraska Ground Water Management and Protection Act exceed their restricted funds budgeted to administer and implement ground water management activities and integrated management activities for FY2003-04, not to exceed one cent on each one hundred dollars of taxable valuation annually on all of the taxable property within the district.

(5) Educational service units may levy a maximum levy of one and one-half cents per one hundred dollars of taxable valuation of property subject to the levy.

(6)(a) Incorporated cities and villages which are not within the boundaries of a municipal county may levy a maximum levy of forty-five cents per one hundred dollars of taxable valuation of property subject to the levy plus an additional five cents per one hundred dollars of taxable valuation to provide financing for the municipality's share of revenue required under an agreement or agreements executed pursuant to the Interlocal Cooperation Act or the Joint Public Agency Act. The maximum levy shall include amounts levied to pay for sums to support a library pursuant to section 51-201, museum pursuant to section 51-501, visiting community nurse, home health nurse, or home health agency pursuant to section 71-1637, or statue, memorial, or monument pursuant to section 80-202.

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

(7) Sanitary and improvement districts which have been in existence for more than five years may levy a maximum levy of forty cents per one hundred dollars of taxable valuation of property subject to the levy, and sanitary and improvement districts which have been in existence for five years or less shall not have a maximum levy. Unconsolidated sanitary and improvement districts which have been in existence for more than five years and are

located in a municipal county may levy a maximum of eighty-five cents per hundred dollars of taxable valuation of property subject to the levy.

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

(9) Municipal counties may levy or authorize a maximum levy of one dollar per one hundred dollars of taxable valuation of property subject to the levy. The municipal county may allocate levy authority to any political subdivision or entity subject to allocation under section 77-3443.

(10) Property tax levies for judgments, except judgments or orders from the Commission of Industrial Relations, obtained against a political subdivision which require or obligate a political subdivision to pay such judgment, to the extent such judgment is not paid by liability insurance coverage of a political subdivision, for preexisting lease-purchase contracts approved prior to July 1, 1998, for bonded indebtedness approved according to law and secured by a levy on property, and for payments by a public airport to retire interest-free loans from the Department of Aeronautics in lieu of bonded indebtedness at a lower cost to the public airport are not included in the levy limits established by this section.

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

(12) Tax levies in excess of the limitations in this section shall be considered unauthorized levies under section 77-1606 unless approved under section 77-3444.

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

Sec. 13. Section 77-3501.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-3501.01 (1) For purposes of section 77-3507, exempt amount shall mean the lesser of (a) the taxable value of the homestead or (b) eighty one hundred percent of the average assessed value of single-family residential property in the claimant's county of residence as determined in section 77-3506.02 or forty thousand dollars, whichever is greater.

(2) For purposes of sections 77-3508 and 77-3509, exempt amount shall mean the lesser of (a) the taxable value of the homestead or (b) one hundred twenty percent of the average assessed value of single-family residential property in the claimant's county of residence as determined in section 77-3506.02 or fifty thousand dollars, whichever is greater.

Sec. 14. Section 77-3505.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-3505.02 Maximum value shall mean:

(1) For applicants eligible under section 77-3507, ~~one hundred fifty~~ two hundred percent of the average assessed value of single-family residential property in the claimant's county of residence as determined in section 77-3506.02 or ninety-five thousand dollars, whichever is greater; and

(2) For applicants eligible under sections 77-3508 and 77-3509, ~~one hundred seventy-five~~ two hundred twenty-five percent of the average assessed value of single-family residential property in the claimant's county of residence as determined in section 77-3506.02 or one hundred ten thousand

dollars, whichever is greater.

Sec. 15. Section 77-5023, Revised Statutes Cumulative Supplement, 2004, is amended to read:

77-5023 (1) Pursuant to section 77-5022, the commission shall have the power to increase or decrease the value of a class or subclass of real property in any county or taxing authority or of real property valued by the state so that all classes or subclasses of real property in all counties fall within an acceptable range.

(2) An acceptable range is the percentage of variation from a standard for valuation as measured by an established indicator of central tendency of assessment. Acceptable ranges are: (a) For agricultural and horticultural land as defined in section 77-1359, ~~seventy-four to eighty~~ sixty-nine to seventy-five percent of actual value; (b) for lands defined in section 77-1344 receiving special valuation, ~~seventy-four to eighty~~ sixty-nine to seventy-five percent of special valuation as defined in section 77-1343 and ~~seventy-four to eighty~~ sixty-nine to seventy-five percent of recapture valuation as defined in section 77-1343; and (c) for all other real property, ninety-two to one hundred percent of actual value.

(3) Any increase or decrease shall cause the indicator of central tendency of assessment utilized by the commission to be at the midpoint of the applicable acceptable range.

(4) Any decrease or increase to a subclass of property shall also cause the indicator of central tendency utilized by the commission for the class from which the subclass is drawn to be within the applicable acceptable range.

(5) Whether or not an established indicator of central tendency falls within an acceptable range or at the midpoint of an acceptable range may be determined to a reasonable degree of certainty relying upon generally accepted mass appraisal techniques.

Sec. 16. Section 79-1016, Revised Statutes Supplement, 2005, is amended to read:

79-1016 (1) On or before August 25, the county assessor shall certify to the Property Tax Administrator the total taxable value by school district in the county for the current assessment year on forms prescribed by the Property Tax Administrator. The county assessor may amend the filing for changes made to the taxable valuation of the school district in the county if corrections or errors on the original certification are discovered. Amendments shall be certified to the Property Tax Administrator on or before September 30. For 2005, pursuant to orders issued by the State Committee for the Reorganization of School Districts on or before December 1, 2005, for a Class I school district which dissolves and attaches its territory to a Class II, III, IV, or VI school district in such a manner that the parcels of property do not become a part of the local system with which they were previously affiliated or to which they were previously attached, the Property Tax Administrator shall require the county assessor to recertify the Class I district's taxable valuation according to the new affiliation on or before December 20, 2005, on forms prescribed by the Property Tax Administrator. For any local system's territory which is affected by a recertification of a Class I district's taxable valuation, the Property Tax Administrator shall compute and recertify the adjusted valuation to each local system and the department on or before February 1, 2006.

(2) On or before October 10, the Property Tax Administrator shall compute and certify to the State Department of Education the adjusted valuation for the current assessment year for each class of property in each school district and each local system for state aid to be certified for the following school fiscal year. The adjusted valuation of property for each school district and each local system, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible state aid value as defined in subsection (3) of this section. The Property Tax Administrator shall notify each school district and each local system of its adjusted valuation for the current assessment year by class of property on or before October 10. Establishment of the adjusted valuation shall be based on the taxable value certified by the county assessor for each school district in the county adjusted by the determination of the level of value for each school district from an analysis of the comprehensive assessment ratio study or other studies developed by the Property Tax Administrator, in compliance with professionally accepted mass appraisal techniques, as required by section 77-1327. The Property Tax Administrator shall adopt and promulgate rules and regulations setting forth standards for the determination of level of value for school aid purposes.

(3) For purposes of this section, state aid value means:

(a) For real property other than agricultural and horticultural

land, one hundred percent of actual value;

(b) For agricultural and horticultural land, ~~eighty~~ seventy-five percent of actual value as provided in sections 77-1359 to 77-1363. For agricultural and horticultural land that receives special valuation pursuant to section 77-1344, ~~eighty~~ seventy-five percent of special valuation as defined in section 77-1343; and

(c) For personal property, the net book value as defined in section 77-120.

(4) On or before November 10, any local system may file with the Property Tax Administrator written objections to the adjusted valuations prepared by the Property Tax Administrator, stating the reasons why such adjusted valuations are not the valuations required by subsection (3) of this section. The Property Tax Administrator shall fix a time for a hearing. Either party shall be permitted to introduce any evidence in reference thereto. On or before January 1, the Property Tax Administrator shall enter a written order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Property Tax Administrator shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. A copy of the written order shall be mailed to the local system within seven days after the date of the order. The written order of the Property Tax Administrator may be appealed within thirty days after the date of the order to the Tax Equalization and Review Commission in accordance with section 77-5013.

(5) On or before November 10, any local system or county official may file with the Property Tax Administrator a written request for a nonappealable correction of the adjusted valuation due to clerical error or, for agricultural and horticultural land, assessed value changes by reason of land qualified or disqualified for special use valuation pursuant to sections 77-1343 to 77-1348. For purposes of this subsection, clerical error means transposition of numbers, allocation of value to the wrong school district, mathematical error, and omitted value. On or before the following January 1, the Property Tax Administrator shall approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from such action to the State Department of Education.

(6) On or before May 31 of the year following the certification of adjusted valuation pursuant to subsection (2) of this section, any local system or county official may file with the Property Tax Administrator a written request for a nonappealable correction of the adjusted valuation due to changes to the tax list that change the assessed value of taxable property. Upon the filing of the written request, the Property Tax Administrator shall require the county assessor to recertify the taxable valuation by school district in the county on forms prescribed by the Property Tax Administrator. The recertified valuation shall be the valuation that was certified on the tax list, pursuant to section 77-1613, increased or decreased by changes to the tax list that change the assessed value of taxable property in the school district in the county in the prior assessment year. On or before the following July 31, the Property Tax Administrator shall approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from such action to the State Department of Education.

(7) No injunction shall be granted restraining the distribution of state aid based upon the adjusted valuations pursuant to this section.

(8) A school district whose state aid is to be calculated pursuant to subsection (5) of this section and whose state aid payment is postponed as a result of failure to calculate state aid pursuant to such subsection may apply to the state board for lump-sum payment of such postponed state aid. Such application may be for any amount up to one hundred percent of the postponed state aid. The state board may grant the entire amount applied for or any portion of such amount. The state board shall notify the Director of Administrative Services of the amount of funds to be paid in a lump sum and the reduced amount of the monthly payments. The Director of Administrative Services shall, at the time of the next state aid payment made pursuant to section 79-1022, draw a warrant for the lump-sum amount from appropriated funds and forward such warrant to the district.

Sec. 17. Sections 2, 13, 14, 15, and 18 of this act become operative on January 1, 2007. Sections 7, 8, 9, 10, 11, and 20 of this act become operative for taxable years beginning or deemed to begin on or after January 1, 2006, under the Internal Revenue Code of 1986, as amended. Sections 3, 4, 5, 6, and 21 of this act become operative on July 1, 2006. The other sections of this act become operative on their effective date.

Sec. 18. Original sections 77-3501.01 and 77-3505.02, Reissue Revised Statutes of Nebraska, section 77-5023, Revised Statutes Cumulative

Supplement, 2004, and section 77-201, Revised Statutes Supplement, 2005, are repealed.

Sec. 19. Original sections 66-1345.04, 77-3442, and 79-1016, Revised Statutes Supplement, 2005, are repealed.

Sec. 20. Original sections 77-2715.02 and 77-2716.03, Reissue Revised Statutes of Nebraska, section 77-2716.01, Revised Statutes Cumulative Supplement, 2004, and sections 77-2715.07 and 77-2716, Revised Statutes Supplement, 2005, are repealed.

Sec. 21. Original section 77-2704.55, Revised Statutes Cumulative Supplement, 2004, and sections 77-2701 and 77-2701.04, Revised Statutes Supplement, 2005, are repealed.

Sec. 22. Since an emergency exists, this act takes effect when passed and approved according to law.