

## LEGISLATIVE BILL 965

Approved by the Governor April 14, 2008

Introduced by Revenue Committee: Janssen, 15, Chairperson; Burling, 33; Cornett, 45; Dierks, 40; Langemeier, 23; Preister, 5; Raikes, 25; White, 8.

FOR AN ACT relating to revenue and taxation; to amend sections 77-115, 77-1201, 77-1202.01, 77-1210, 77-1214, 77-1219, 77-1230, 77-1233.02, 77-1233.03, and 77-1734.01, Reissue Revised Statutes of Nebraska, sections 77-1234, 77-1345.01, 77-1502, 77-1504.01, and 77-5019, Revised Statutes Cumulative Supplement, 2006, and sections 76-214, 77-1233.04, 77-1233.06, 77-1736.06, 77-4105, 77-5004, 77-5725, and 81-1316, Revised Statutes Supplement, 2007; to change provisions relating to real estate tax statements, county assessors, tangible personal property tax assessment, property tax protests and appeals, refunds, Tax Commissioner duties, and the Tax Equalization and Review Commission; to exempt personnel of the Tax Equalization and Review Commission from the State Personnel System; to eliminate a provision relating to a report; to provide operative dates; to repeal the original sections; to outright repeal section 77-202.13, Revised Statutes Supplement, 2007; and to declare an emergency.

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

Section 1. Section 76-214, Revised Statutes Supplement, 2007, is amended to read:

76-214 (1) Every grantee who has a deed to real estate recorded ~~which was executed after July 21, 1965,~~ and every purchaser of real estate who has a memorandum of contract or land contract recorded ~~which was executed after July 16, 1994,~~ shall, at the time such deed, memorandum of contract, or land contract is presented for recording, file with the register of deeds a completed statement as prescribed by the Tax Commissioner. ~~For all deeds executed and recorded after January 1, 1986, and for all memoranda of contract and land contracts executed and recorded after July 16, 1994, and prior to January 1, 2001, the statement shall contain the social security number of the grantee or purchaser, if living, or the federal employer identification number of the grantee or purchaser. For all deeds and all memoranda of contract and land contracts executed and recorded on and after January 1, 2001, the statement shall not require the social security number of the grantee or purchaser or the federal employer identification number of the grantee or purchaser. This statement may require the recitation of any information contained in the deed, memorandum of contract, or land contract, the total consideration paid, the amount of the total consideration attributable to factors other than the purchase of the real estate itself, and other factors which may influence the transaction. This statement shall be signed and filed by the grantee, the purchaser, or his or her authorized agent. The statement form shall be designed so that multiple copies are generated. Beginning January 1, 2001, the register of deeds shall forward the original copy of the statement to the Department of Revenue, two copies of the statement shall be provided to the county assessor, and a copy shall be provided to the grantee or purchaser or his or her agent. The register of deeds shall forward the statement to the county assessor. If the grantee or purchaser fails to furnish the prescribed statement, the register of deeds shall not record the deed, memorandum of contract, or land contract. The register of deeds shall indicate on the statement the book and page or computer system reference where the deed, memorandum of contract, or land contract is recorded and shall immediately forward the statement to the county assessor. The county assessor shall process the statement according to the instructions of the Property Tax Administrator and shall, when directed, pursuant to the rules and regulations of the Tax Commissioner, forward the statement to the Tax Commissioner. Except as provided in subsection (2) of this section, the statement and the information contained therein shall be confidential and available to tax officials only.~~

(2) Any person shall have access to the statements at the office of the Tax Commissioner or county assessor ~~which have been filed on or after January 1, 1995,~~ and if the statements are available and have not been disposed of pursuant to the records retention and disposition schedule as approved by the State Records Administrator.

Sec. 2. Section 77-115, Reissue Revised Statutes of Nebraska, is amended to read:

77-115 County assessor includes an elected or appointed county

assessor or a county clerk who is an ex officio county assessor. In counties in which the state has assumed the assessment function, the Property Tax Administrator or his or her designee performs the duties and has the authority of the county assessor.

Sec. 3. Section 77-1201, Reissue Revised Statutes of Nebraska, is amended to read:

77-1201 All tangible personal property in this state subject to taxation shall be assessed as of January 1 at 12:01 a.m., which assessment shall be used as a basis of taxation until the next assessment. A complete list of all taxable tangible personal property held or owned on the assessment date shall be made as follows:

(1) Every person shall list all his or her taxable tangible personal property as defined in section 77-105 having tax situs in the State of Nebraska;

(2) The taxable tangible personal property of a minor child shall be listed by the following: (a) His or her guardian; (b) if he or she has no guardian, by his or her parent, if living; and (c) if neither parent is living, by the person having such property in charge;

(3) The taxable tangible personal property of any other person under guardianship, by his or her guardian or, if he or she has no guardian, by the person having charge of such property;

(4) The taxable tangible personal property of a person for whose benefit it is held in trust, by the trustee, and of the estate of a deceased person, by the personal representative or administrator;

(5) The taxable tangible personal property of corporations the assets of which are in the hands of a receiver, by such a receiver;

(6) The taxable tangible personal property of corporations, by the president or the proper agent or officer thereof;

(7) The taxable tangible personal property of a firm or company, by a partner, limited liability company member, or agent thereof;

(8) The taxable tangible personal property of manufacturers and others in the hands of an agent, by and in the name of such agent; and

(9) All leased taxable tangible personal property shall be reported, by itemizing each article, by lessor as owner or lessee as agent.

Sec. 4. Section 77-1202.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-1202.01 In preparing the tax list, each county assessor shall enter in a separate column, opposite the name of each person, the person's post office address and the number of the school and road districts in which the taxable tangible personal property of such person is assessable.

Sec. 5. Section 77-1210, Reissue Revised Statutes of Nebraska, is amended to read:

77-1210 ~~Personal~~ Taxable tangible personal property in transit shall be listed and assessed in the tax district where the owner resides, but if such property is intended for a business, it shall be listed and assessed in the tax district where the property of such business is required to be listed.

Sec. 6. Section 77-1214, Reissue Revised Statutes of Nebraska, is amended to read:

77-1214 It shall be the duty of any county assessor, sheriff, constable, city council member, and village trustee to at once inform the county treasurer of the making or attempted making of any sale, levy of attachment, or removal of taxable tangible personal property known to him or her. It shall be the duty of the county treasurer to forthwith proceed with the collection of the tax when such acts become known to him or her in any manner. Any personal property tax shall be due and collectible, including all taxable tangible personal property then assessed upon which the tax shall be computed on the basis of the last preceding levy, and a distress warrant shall be issued when (1) any person attempts to sell all or a substantial part of his or her taxable tangible personal property, (2) a levy of attachment is made upon taxable tangible personal property, or (3) a person attempts to remove or removes taxable tangible personal property from the county.

Sec. 7. Section 77-1219, Reissue Revised Statutes of Nebraska, is amended to read:

77-1219 It shall be the duty of the county assessor, when required by any person, to give a certificate of assessment of taxable tangible personal property showing the amount, kind, location, and net book value of the property assessed, and such certificate shall be evidence of the legal assessment of such property for the year.

Sec. 8. Section 77-1230, Reissue Revised Statutes of Nebraska, is amended to read:

77-1230 (1) Whenever a person files an amended federal income tax return or ~~his or her~~ whenever a person's return is changed or corrected by

the Internal Revenue Service or other competent authority and the amendment, change, or correction affects the Nebraska adjusted basis of the person's taxable tangible personal property, such person shall file an amended list of taxable tangible personal property subject to taxation with the county assessor. The person shall file the amended list within ninety days after the filing of the amended federal return or within ninety days after the date the change or correction becomes final.

(2) Within the same tax year or the three previous tax years, a person may file an amended list of taxable tangible personal property subject to taxation upon discovery of errors or omissions on his or her filed list.

(3) If an amended list of taxable tangible personal property subject to taxation is filed, the county assessor shall accept or reject the proposed amendment within fifteen days after filing. The county assessor shall notify the person, on a form prescribed by the Property Tax Administrator, of the action taken, the penalty, if any, and the rate of interest. The notice shall also state the person's appeal rights and appeal procedures, which shall be the same as provided in section 77-1233.06. Such notice shall be given by first-class mail addressed to such person's last-known address.

(4) Whenever changes are made to a taxable tangible personal property return pursuant to this section, the county assessor shall correct the assessment roll and tax list, if necessary, to reflect such changes.

(5) If the amendment, change, or correction results in taxable tangible personal property becoming exempt or reduces the net book value of the property for an income tax year, the person may file a written claim for a refund of property tax paid relating to the federal income tax changes with the county treasurer. If the amended list and the claim for refund are filed within the ninety-day period, the claim shall be considered as timely filed notwithstanding any other provision of law regarding the period during which refunds could otherwise be claimed. The claim shall be processed according to section 77-1734.01. a refund shall be paid pursuant to section 77-1734.01.

~~(3)~~ (6) If the amendment, change, or correction results in an increase in the net book value of the taxable tangible personal property or makes other tangible personal property taxable, the county assessor shall compute the additional tax due, along with interest, based on the amended listing. Interest shall be computed from the dates the tax would have been delinquent if the property had been listed on or before May 1 of the appropriate year. If the amended listing is filed within the ninety-day period, no additional penalties shall be added. If the listing is not filed within the ninety-day period, the property shall be subject to a penalty pursuant to subsection (4) of section 77-1233.04.

Sec. 9. Section 77-1233.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-1233.02 The county assessor with the aid of his or her deputy and assistants shall carefully examine, check, and verify all taxable tangible personal property tax returns. The assessor may make such investigation, examination, and inspection of the property set out in a return and examine under oath the person making the return as to his or her books, records, and papers in order to enable the assessor to determine that all taxable tangible personal property of the taxpayer is listed for taxation at its net book value.

Sec. 10. Section 77-1233.03, Reissue Revised Statutes of Nebraska, is amended to read:

77-1233.03 The county assessor shall have general supervision over and direction of the assessment of all personal property in his or her county. He or she shall advise and instruct all deputies and assistants as to their duties and shall require of them that the assessment of property be uniform throughout the county and that property be assessed as directed by law.

The county assessor may, in extending a value on any item of taxable tangible personal property, reject all values that fall below two dollars and fifty cents and extend all values of two dollars and fifty cents or more to the next higher five dollars or multiples thereof, making all valuations end in zero or five.

Sec. 11. Section 77-1233.04, Revised Statutes Supplement, 2007, is amended to read:

77-1233.04 (1) The county assessor shall list and value at net book value any item of taxable tangible personal property omitted from a personal property return of any taxpayer. The county assessor shall change the reported valuation of any item of taxable tangible personal property listed on the return to conform the valuation to net book value. If a taxpayer fails or refuses to file a personal property return, the assessor shall, on behalf of the taxpayer, file a personal property return which shall list and value all of the taxpayer's taxable tangible personal property at net book

value. The county assessor shall list or change the valuation of any item of taxable tangible personal property for the current taxing period and the three previous taxing periods or any taxing period included therein.

(2) The taxable tangible personal property so listed and valued shall be taxed at the same rate as would have been imposed upon the property in the tax district in which the property should have been returned for taxation.

(3) Any valuation added to a personal property return or added through the filing of a personal property return, after May 1 and on or before July 31 of the year the property is required to be reported, shall be subject to a penalty of ten percent of the tax due on the value added.

(4) Any valuation added to a personal property return or added through the filing of a personal property return, on or after August 1 of the year the property is required to be reported, shall be subject to a penalty of twenty-five percent of the tax due on the value added.

(5) Interest shall be assessed upon both the tax and the penalty at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax would have been delinquent until paid.

(6) Whenever valuation changes are made to a personal property return or a personal property return is filed pursuant to this section, the county assessor shall correct the assessment roll and tax list, if necessary, to reflect such changes. Such corrections shall be made for the current taxing period and the three previous taxing periods or any taxing period included therein. If the change results in a decreased taxable valuation on the personal property return and the personal property tax has been paid prior to a correction pursuant to this section, the taxpayer may request a refund ~~or credit~~ of the tax in the same manner prescribed in section 77-1734.01, except that such request shall be made within three years after the date the tax was due.

Sec. 12. Section 77-1233.06, Revised Statutes Supplement, 2007, is amended to read:

77-1233.06 For purposes of section 77-1233.04:

(1) The county assessor shall notify the taxpayer, on a form prescribed by the Tax Commissioner, of the action taken, the penalty, and the rate of interest. The notice shall also state the taxpayer's appeal rights and the appeal procedures. Such notice shall be given by first-class mail addressed to such taxpayer's last-known address. The entire penalty and interest shall be waived if the omission or failure to report any item of taxable tangible personal property was for the reason that the property was timely reported in the wrong tax district;

(2) The taxpayer may appeal the action of the county assessor, either as to the valuation or the penalties imposed, to the county board of equalization within thirty days after the date of notice. The taxpayer shall preserve his or her appeal by filing a written appeal with the county clerk in the same manner as prescribed for protests in section 77-1502. The action of the county assessor shall become final unless a written appeal is filed within the time prescribed;

(3) The action of the county board of equalization, in an appeal of the penalties imposed, shall be limited to correcting penalties which were wrongly imposed or incorrectly calculated. The county board of equalization shall have no authority to waive or reduce any penalty which was correctly imposed and calculated. The entire penalty and interest on the penalty shall be waived if the omission or failure to report any item of taxable tangible personal property was for the reason that the property was timely reported in the wrong tax district;

(4) Upon ten days' notice to the taxpayer, the county board of equalization shall set a date for hearing the appeal of the taxpayer. The county board of equalization shall make its determination on the appeal within thirty days after the date of hearing. The county clerk shall, within seven days after the determination of the county board, send notice to the taxpayer and the county assessor, on forms prescribed by the Tax Commissioner, of the action of the county board. Appeal may be taken within thirty days after the decision of the county board of equalization to the Tax Equalization and Review Commission; and

(5) Taxes and penalties assessed for the current year, if not delinquent, shall be certified to the county treasurer and collected as if the property had been properly reported for taxation, except that separate tax statements may be mailed. Taxes and penalties assessed for the current year, if delinquent, and taxes and penalties assessed for prior years shall be certified to the county treasurer, and the taxes, penalties, and interest thereon shall be due and collectible immediately upon

certification. Collection procedures shall be started immediately regardless of the provisions of any other statute to the contrary.

Sec. 13. Section 77-1234, Revised Statutes Cumulative Supplement, 2006, is amended to read:

77-1234 It shall be the duty of the county boards and county assessors to notify the county attorney of the proper county of all willful violations of the provisions with respect to listing of taxable tangible personal property for taxation known to them or any of them.

Sec. 14. Section 77-1345.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

77-1345.01 (1) On or before July 15 in the year of application, the county assessor shall approve or deny the application for special valuation filed pursuant to section 77-1345. On or before July 22, the county assessor shall issue notice of approval or denial.

(2) If the application is approved by the county assessor, the land shall be valued as provided in section 77-1344 and, on or before July 22, the county board of equalization shall send a property valuation notice for special value and recapture value to the owner and, if not the same, the applicant. Within thirty days after the mailing of the notice, a written protest of the special value or recapture value may be filed.

(3) (a) If the application is denied by the assessor, a written protest of the denial of the application may be filed within thirty days after the mailing of the denial.

(b) If the denial of an application for special valuation is reversed on appeal and the application is approved, the land shall be valued as provided in section 77-1344 and the county board of equalization shall send the property valuation notice for special value and recapture value to the owner and, if not the same, the applicant or his or her successor in interest, within fourteen days after the date of the final order. Within thirty days after the mailing of the notice, a written protest of the special value or recapture value may be filed.

(4) If the county board of equalization takes action pursuant to section 77-1504 or 77-1507 and the applicant filed an application for special valuation pursuant to subsection (3) of section 77-1345, the county assessor shall approve or deny the application within fifteen days after the filing of the application and issue notice of the approval or denial as prescribed in subsection (1) of this section. If the application is denied by the county assessor, a written protest of the denial may be filed within thirty days of the mailing of the denial.

(5) The assessor shall mail notice of any action taken by him or her on an application to the owner and the applicant if different than the owner.

(6) All provisions of section 77-1502 except dates for filing of a protest, the period for hearing protests, and the date for mailing notice of the county board of equalization's decision are applicable to any protest filed pursuant to this section.

(7) The county board of equalization shall decide any protest filed pursuant to this section within thirty days after the filing of the protest.

(8) The clerk shall mail a copy of any decision made by the county board of equalization on a protest filed pursuant to this section to the owner and the applicant if different than the owner within seven days after the board's decision.

(9) Any decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission, in accordance with section 77-5013, within thirty days after the date of the decision.

(10) Any If a failure to give notice as prescribed by this section prevented timely filing of a protest or appeal provided for in this section, any applicant may petition the Tax Equalization and Review Commission in accordance with section 77-5013, on or before December 31 of each year, to determine whether the land will receive special valuation for that year, to determine special value for that year or years, or for 2009 and prior years to determine recapture value for that year. if a failure to give notice as prescribed by this section prevented timely filing of a protest or appeal provided for in this section.

Sec. 15. Section 77-1502, Revised Statutes Cumulative Supplement, 2006, is amended to read:

77-1502 (1) The county board of equalization shall meet for the purpose of reviewing and deciding written protests filed pursuant to this section beginning on or after June 1 and ending on or before July 25 of each year. Protests regarding real property shall be signed and filed after the county assessor's completion of the real property assessment roll required by section 77-1315 and on or before June 30. For protests of real property, a protest shall be filed for each parcel. Protests regarding taxable tangible

personal property shall be signed and filed on or before the last date for filing the return required by section 77-1229. returns filed pursuant to section 77-1229 from January 1 through May 1 shall be signed and filed on or before June 30. The county board in a county with a population of more than one hundred thousand inhabitants based upon the most recent federal decennial census may adopt a resolution to extend the deadline for hearing protests from July 25 to August 10. The resolution must be adopted before July 25 and it will affect the time for hearing protests for that year only. By adopting such resolution, such county waives any right to petition the Tax Equalization and Review Commission for adjustment of a class or subclass of real property under section 77-1504.01 for that year.

(2) Each protest shall be signed and filed in triplicate with the county clerk of the county where the property is assessed. The protest shall contain or have attached a statement of the reason or reasons why the requested change should be made and a description of the property to which the protest applies. If the property is real property, a description of each parcel shall be provided. If the property is tangible personal property, a physical description of the property under protest shall be provided. If the protest does not contain or have attached the statement of the reason or reasons for the protest or the description of the property, the protest shall be dismissed by the county board of equalization.

(3) No hearing of the county board of equalization on a protest filed under this section shall be held before a single commissioner or supervisor.

(4) The county clerk or county assessor shall prepare a separate report on each protest. The report shall include (a) a description of the property to which the protest applies, (b) any recommendation of the county assessor for action on the protest, (c) if a referee is used, the recommendation of the referee, (d) the date the county board of equalization heard the protest, (e) the decision made by the county board of equalization, (f) the date of the decision, and (g) the date notice of the decision was mailed to the protester. The report shall contain, or have attached to it, a statement, signed by the chairperson of the county board of equalization, describing the basis upon which the board's decision was made. The report shall have attached to it a copy of that portion of the property record file which substantiates calculation of the protested value unless the county assessor certifies to the county board of equalization that a copy is maintained in either electronic or paper form in his or her office. One copy of the report, if prepared by the county clerk, shall be given to the county assessor on or before August 2. The county assessor shall have no authority to make a change in the assessment rolls until there is in his or her possession a report which has been completed in the manner specified in this section. If the county assessor deems a report submitted by the county clerk incomplete, the county assessor shall return the same to the county clerk for proper preparation.

(5) On or before August 2, or on or before August 18 in a county that has adopted a resolution to extend the deadline for hearing protests, the county clerk shall mail to the protester written notice of the board's decision. The notice shall contain a statement advising the protester that a report of the board's decision is available at the county clerk's or county assessor's office, whichever is appropriate, and that a copy of the report may be used to complete an appeal to the Tax Equalization and Review Commission.

Sec. 16. Section 77-1504.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

77-1504.01 (1) Unless the county has adopted a resolution to extend the deadline for hearing protests under section 77-1502, after completion of its actions and based upon the hearings conducted pursuant to sections 77-1502 and 77-1504, a county board of equalization may petition the Tax Equalization and Review Commission to consider an adjustment to a class or subclass of real property within the county. Petitions must be filed with the commission on or before July 26.

(2) The commission shall hear and take action on a petition filed by a county board of equalization on or before August 10. Hearings held pursuant to this section may be held by means of videoconference. The burden of proof is on the petitioning county to show that failure to make an adjustment would result in values that are not equitable and in accordance with the law. At the hearing the commission may receive testimony from any interested person.

(3) After a hearing the commission shall, within the powers granted in section 77-5023, enter its order based on evidence presented to it at such hearing and the hearings held pursuant to section 77-5022 for that year. The order shall specify the percentage increase or decrease and the class or subclass of real property affected or any corrections or adjustments to be

made to the class or subclass of real property affected. When issuing an order to adjust a class or subclass of real property, the commission may exclude individual properties from that order whose value has already been adjusted by a county board of equalization in the same manner as the commission directs in its order. On or before August 10 of each year, the commission shall send its order by certified mail to the county assessor and by regular mail to the county clerk and chairperson of the county board.

(4) The county assessor shall make the specified changes to each item of property in the county as directed by the order of the commission. In implementing such order, the county assessor shall adjust the values of the class or subclass that is the subject of the order. For properties that have already received an adjustment from the county board of equalization, an additional adjustment may be made so that total adjustments made are equal to the commission's ordered adjustment and no additional adjustment shall be made applying the commission's order, but such an exclusion from the commission's order shall not preclude adjustments to those properties for corrections or omissions. The county assessor of the county adjusted by an order of the commission shall recertify the abstract of assessment to the Property Tax Administrator on or before August 20.

Sec. 17. Section 77-1734.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-1734.01 (1) In the case of an amended federal income tax return or whenever a person's return is changed or corrected by the Internal Revenue Service or other competent authority that decreases the Nebraska adjusted basis of the person's taxable tangible personal property, the county treasurer shall refund that portion of the tax paid that is in excess of the amount due after the amendment or correction.

(2) In case of payment made of any property taxes or any payments in lieu of taxes with respect to property as a result of a clerical error or honest mistake or misunderstanding, on the part of a county or other political subdivision of the state or any taxpayer, the county treasurer to whom the tax was paid may shall refund or credit that portion of the tax paid as a result of the clerical error or honest mistake or misunderstanding. A claim for a refund pursuant to this section shall be made in writing to the county treasurer to whom the tax was paid within three years after the date the tax was due or within ninety days after filing the amended return or the correction becomes final.

(3) Before the refund or credit may be is made, the county treasurer shall receive verification from the county assessor or other taxing official that such error or mistake was made or the amended return was filed or the correction made, and the claim for refund or credit shall be submitted to the county board. The county board shall pass upon the claim as any other claim made against the county. The refund shall be made in the manner prescribed in section 77-1736.06. The claim for a refund or credit pursuant to this section shall be made in writing to the county treasurer to whom the tax was paid within two years from the date the tax was due. The ordering of a refund or credit by the county board pursuant to this section shall not have a dispositional effect on any similar claim for refund or credit made by another taxpayer. Upon verification, the county board shall approve the claim. The refund shall be made in the manner prescribed in section 77-1736.06. Such refund shall not have a dispositional effect on any similar refund for another taxpayer. This section may not be used to challenge the valuation of property, the equalization of property, or the constitutionality of a tax.

Sec. 18. Section 77-1736.06, Revised Statutes Supplement, 2007, is amended to read:

77-1736.06 The following procedure shall apply when making a property tax refund:

(1) Within thirty days of the entry of a final nonappealable order, an unprotested determination of a county assessor, an unappealed decision of a county board of equalization, or other final action requiring a refund of real or personal property taxes paid or other action approving a refund or, for property valued by the state, within thirty days of a recertification of value by the Property Tax Administrator pursuant to section 77-1775 or 77-1775.01, the county assessor shall determine the amount of refund due the person entitled to the refund, certify that amount to the county treasurer, and send a copy of such certification to the person entitled to the refund. Within thirty days from the date the county assessor certifies the amount of the refund, the county treasurer shall notify each political subdivision of its respective share of the refund, except that for any political subdivision whose share of the refund is two hundred dollars or less, the county board may waive this notice requirement. Notification shall be by first-class mail, postage prepaid, to the last-known address of record of the political

subdivision. The county treasurer shall pay the refund from funds in his or her possession belonging to any political subdivision which received any part of the tax or penalty being refunded. If sufficient funds are not available or the political subdivision, within thirty days of the mailing of the notice by the county treasurer if applicable, certifies to the county treasurer that a hardship would result and create a serious interference with its governmental functions if the refund of the tax or penalty is paid, the county treasurer shall register the refund or portion thereof which remains unpaid as a claim against such political subdivision and shall issue the person entitled to the refund a receipt for the registration of the claim. The certification by a political subdivision declaring a hardship shall be binding upon the county treasurer;

(2) The refund of a tax or penalty or the receipt for the registration of a claim made or issued pursuant to this section shall be satisfied in full as soon as practicable and in no event later than five years from the date the final order or other action approving a refund is entered. The governing body of the political subdivision shall make provisions in its budget for the amount of any refund or claim to be satisfied pursuant to this section. If a receipt for the registration of a claim is given:

(a) Such receipt shall be applied to satisfy any tax levied or assessed by that political subdivision next falling due from the person holding the receipt after the sixth next succeeding levy is made on behalf of the political subdivision following the final order or other action approving the refund; and

(b) To the extent the amount of such receipt exceeds the amount of such tax liability, the unsatisfied balance of the receipt shall be paid and satisfied within the five-year period prescribed in this subsection from a combination of a credit against taxes anticipated to be due to the political subdivision during such period and cash payment from any funds expected to accrue to the political subdivision pursuant to a written plan to be filed by the political subdivision with the county treasurer no later than thirty days after the claim against the political subdivision is first reduced by operation of a credit against taxes due to such political subdivision.

If a political subdivision fails to fully satisfy the refund or claim prior to the sixth next succeeding levy following the entry of a final nonappealable order or other action approving a refund, interest shall accrue on the unpaid balance commencing on the sixth next succeeding levy following such entry or action at the rate set forth in section 45-103;

(3) The county treasurer shall mail the refund or the receipt by first-class mail, postage prepaid, to the last-known address of the person entitled thereto. Multiple refunds to the same person may be combined into one refund or credit. If a refund is not claimed by June 1 of the year following the year of mailing, the refund shall be canceled and the resultant amount credited to the various funds originally charged;

(4) When the refund involves property valued by the state, the Tax Commissioner shall be authorized to negotiate a settlement of the amount of the refund or claim due pursuant to this section on behalf of the political subdivision from which such refund or claim is due. Any political subdivision which does not agree with the settlement terms as negotiated may reject such terms, and the refund or claim due from the political subdivision then shall be satisfied as set forth in this section as if no such negotiation had occurred;

(5) In the event that the Legislature appropriates state funds to be disbursed for the purposes of satisfying all or any portion of any refund or claim, the Tax Commissioner shall order the county treasurer to disburse such refund amounts directly to the persons entitled to the refund in partial or total satisfaction of such persons' claims. The county treasurer shall disburse such amounts within forty-five days after receipt thereof; and

(6) If all or any portion of the refund is reduced by way of settlement or forgiveness by the person entitled to the refund, the proportionate amount of the refund that was paid by an appropriation of state funds shall be reimbursed by the county treasurer to the State Treasurer within forty-five days after receipt of the settlement agreement or receipt of the forgiven refund. The amount so reimbursed shall be credited to the General Fund.

Sec. 19. Section 77-4105, Revised Statutes Supplement, 2007, is amended to read:

77-4105 (1) A taxpayer who has signed an agreement under section 77-4104 may elect to determine taxable income for purposes of the Nebraska income tax using the sales factor only. The election may be made for the year during which the application was filed and for each year thereafter through the eighth year after the end of the entitlement period. The election shall be



made for the year of the election by computing taxable income using the sales factor only on the tax return.

(2) A taxpayer who has signed an agreement under section 77-4104 shall receive the incentive provided in this subsection if the agreement contains one or more projects which together will result in the investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees. Such ten-million-dollar investment and hiring of at least one hundred new employees shall be considered a required level of investment and employment for this subsection and for the recapture of personal property tax only.

The following property used in connection with such project or projects and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed shall constitute separate classes of personal property:

(a) Turbine-powered aircraft, including turboprop, turbojet, and turbofan aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;

(b) Computer systems, made up of equipment that is interconnected in order to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware, used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user. A computer system includes peripheral components which require environmental controls of temperature and power connected to such computers. Peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, data switches, and communication controllers; and

(c) Personal property which is business equipment located in a single project if (i) the business equipment is involved directly in the manufacture or processing of agricultural products and (ii) the investment in the single project exceeds ten million dollars.

Such property shall be eligible for exemption from the tax on personal property from the first January 1 following the date of acquisition for property in subdivision (2)(a) of this section, or from the first January 1 following the end of the year during which the required levels were exceeded for property in subdivisions (2)(b) and (2)(c) of this section, through the sixteenth December 31 after the filing of the application. In order to receive the property tax exemptions allowed by subdivisions (2)(a), (2)(b), and (2)(c) of this section, the taxpayer shall annually file a claim for exemption with the Tax Commissioner on or before May 1. The form and supporting schedules shall be prescribed by the Tax Commissioner and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each project and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Tax Commissioner shall determine the eligibility of each item listed for exemption and, on or before August 10, 1, certify such to the taxpayer and to the affected county assessor.

(3) When the taxpayer has met the required levels of employment and investment contained in the agreement, the taxpayer shall also be entitled to the following incentives:

(a) A refund of all sales and use taxes paid under the Nebraska Revenue Act of 1967, the Local Option Revenue Act, and sections 13-319, 13-324, and 13-2813 from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by the owner of the improvement to real estate that is incorporated into real estate as a part of a project; and

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b) A refund of the sales and use taxes paid under the Nebraska Revenue Act of 1967, the Local Option Revenue Act, and sections 13-319, 13-324, and 13-2813 on the types of purchases, including rentals, listed in

subdivision (a) of this subsection for such taxes paid during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment.

(4) Any taxpayer who qualifies for the incentives contained in subsections (1) and (3) of this section and who has added at least thirty new employees at the project shall also be entitled to:

(a) A credit equal to five percent of the amount by which the total compensation paid during the year to employees who are either Nebraska employees or base-year employees while employed at the project exceeds the average compensation paid at the project multiplied by the number of equivalent base-year employees.

For the computation of such credit, average compensation shall mean the total compensation paid at the project divided by the total number of equivalent employees at the project; and

(b) A credit equal to ten percent of the investment made in qualified property at the project.

The credits prescribed in subdivisions (a) and (b) of this subsection shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

The credit prescribed in subdivision (b) of this subsection shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment were met.

Sec. 20. Section 77-5004, Revised Statutes Supplement, 2007, is amended to read:

77-5004 (1) Each commissioner shall be a qualified voter and resident of the state and, for each commissioner representing a congressional district, a domiciliary of the district he or she represents.

(2) Each commissioner shall devote his or her full time and efforts to the discharge of his or her duties and shall not hold any other office under the laws of this state, any city or county in this state, or the United States Government while serving on the commission. Each commissioner shall possess:

(a) Appropriate knowledge of terms commonly used in or related to real property appraisal and of the writing of appraisal reports;

(b) Adequate knowledge of depreciation theories, cost estimating, methods of capitalization, and real property appraisal mathematics;

(c) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and evaluating of data involved in the valuation of real property, including complex industrial properties and mass appraisal techniques;

(d) Knowledge of the law relating to taxation, civil and administrative procedure, due process, and evidence in Nebraska;

(e) At least thirty hours of successfully completed class hours in courses of study, approved by the Real Property Appraiser Board, which relate to appraisal and which include the fifteen-hour National Uniform Standards of Professional Appraisal Practice Course. If a commissioner has not received such training prior to his or her appointment, such training shall be completed within one year after appointment; and

(f) Such other qualifications and skills as reasonably may be requisite for the effective and reliable performance of the commission's duties.

(3) One commissioner shall possess any certification or training required to become a licensed real property appraiser as set forth in section 76-2230.

(4) Prior to January 1, 2002, the chairperson, and on and after January 1, 2002, at least two commissioners, shall have been engaged in the practice of law in the State of Nebraska for at least five years, which may include prior service as a judge, and shall be currently admitted to practice before the Nebraska Supreme Court.

(5) No commissioner or employee of the commission shall hold any position of profit or engage in any occupation or business interfering with or inconsistent with his or her duties as a commissioner or employee. A person is not eligible for appointment and may not hold the office of commissioner or be appointed by the commission to or hold any office or position under the commission if he or she holds any official office or position.

(6) (a) Each commissioner who meets the requirements of subsection (4) of this section on or after January 1, 2002, shall annually attend a seminar or class of at least two days' duration that is:

(i) Sponsored by a recognized assessment or appraisal organization,

in each of these areas: Utility and railroad appraisal; appraisal of complex industrial properties; appraisal of other hard to assess properties; and mass appraisal, residential or agricultural appraisal, or assessment administration; or

(ii) Pertaining to management, law, civil or administrative procedure, or other knowledge or skill necessary for performing the duties of the office.

(b) Each commissioner who does not meet the requirements of subsection (4) of this section on or after January 1, 2002, shall within two years after his or her appointment attend at least thirty hours of instruction that constitutes training for judges or administrative law judges.

(7) The commissioners shall be considered employees of the state for purposes of sections ~~81-1301 to 81-1391~~ 81-1320 to 81-1328 and 84-1601 to 84-1615.

(8) The commissioners shall be reimbursed as prescribed in sections 81-1174 to 81-1177 for their actual and necessary expenses in the performance of their official duties pursuant to the Tax Equalization and Review Commission Act.

Sec. 21. Section 77-5019, Revised Statutes Cumulative Supplement, 2006, is amended to read:

77-5019 (1) Any party aggrieved by a final decision in a case appealed to the commission, any party aggrieved by a final decision of the commission on a petition, or any party aggrieved by an order of the commission issued pursuant to section 77-5020 or sections 77-5023 to 77-5028 shall be entitled to judicial review in the Court of Appeals. Upon request of the county, the Attorney General may appear and represent the county or political subdivision in cases in which the commission is not a party. Nothing in this section shall be deemed to prevent resort to other means of review, redress, or relief provided by law.

(2)(a) Proceedings for review shall be instituted by filing a petition and the appropriate docket fees in the Court of Appeals within thirty days after the date on which a final appealable order is entered by the commission. All parties of record shall be made parties to the proceedings for review. The commission shall only be made a party of record if the action complained of is an order issued by the commission pursuant to section 77-1504.01 or 77-5020 or sections 77-5023 to 77-5028. Summons shall be served on all parties within thirty days after the filing of the petition in the manner provided for service of a summons in section 25-510.02. The court, in its discretion, may permit other interested persons to intervene. No bond or undertaking is required for an appeal to the Court of Appeals.

(b) A petition for review shall set forth: (i) The name and mailing address of the petitioner; (ii) the name and mailing address of the county whose action is at issue or the commission; (iii) identification of the final decision at issue together with a duplicate copy of the final decision; (iv) the identification of the parties in the case that led to the final decision; (v) the facts to demonstrate proper venue; (vi) the petitioner's reasons for believing that relief should be granted; and (vii) a request for relief, specifying the type and extent of the relief requested.

(3) The filing of the petition or the service of summons upon the commission shall not stay enforcement of a decision. The commission may order a stay. The court may order a stay after notice of the application for the stay to the commission and to all parties of record. The court may require the party requesting the stay to give bond in such amount and conditioned as the court directs.

(4) Upon receipt of a petition the date for submission of the official record shall be determined by the court. The commission shall prepare a certified copy of the official record of the proceedings had before the commission in the case. The official record, ~~unless limited by the written request of the petitioner,~~ shall include: (a) Notice of all proceedings; (b) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the commission pertaining to the case; (c) the transcribed record of the hearing before the commission, including all exhibits and evidence introduced during the hearing, a statement of matters officially noticed by the commission during the proceeding, and all proffers of proof and objections and rulings thereon; and (d) the final order appealed from. The official record in an appeal of a commission decision issued pursuant to sections 77-5023 to 77-5028 may be limited by the request of a petitioner to those parts of the record pertaining to a specific county. The commission shall charge the petitioner with the reasonable direct cost or require the petitioner to pay the cost for preparing the official record for transmittal to the court in all cases except when the petitioner is not required to pay a filing fee. If payment is required, payment of the cost,

as estimated by the commission, for preparation of the official record shall be paid to the commission prior to preparation of the official record and the commission shall not transmit the official record to the court until payment of the actual costs of its preparation is received.

(5) The review shall be conducted by the court for error on the record of the commission. If the court determines that the interest of justice would be served by the resolution of any other issue not raised before the commission, the court may remand the case to the commission for further proceedings. The court may affirm, reverse, or modify the decision of the commission or remand the case for further proceedings.

(6) Appeals under this section shall be given precedence over all civil cases.

Sec. 22. Section 77-5725, Revised Statutes Supplement, 2007, is amended to read:

77-5725 (1) Applicants may qualify for benefits under the Nebraska Advantage Act in one of five tiers:

(a) Tier 1, investment in qualified property of at least one million dollars and the hiring of at least ten new employees. There shall be no new project applications for benefits under this tier filed on or after January 1, 2011, without further authorization of the Legislature. All complete project applications filed before January 1, 2011, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed before January 1, 2011. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(b) Tier 2, investment in qualified property of at least three million dollars and the hiring of at least thirty new employees;

(c) Tier 3, the hiring of at least thirty new employees. There shall be no new project applications for benefits under this tier filed on or after January 1, 2011, without further authorization of the Legislature. All complete project applications filed before January 1, 2011, shall be considered by the Tax Commissioner and approved if the project and taxpayer qualify for benefits. Agreements may be executed with regard to completed project applications filed before January 1, 2011. All project agreements pending, approved, or entered into before such date shall continue in full force and effect;

(d) Tier 4, investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees; and

(e) Tier 5, investment in qualified property of at least thirty million dollars. Failure to maintain an average number of equivalent employees as defined in section 77-5727 greater than or equal to the number of equivalent employees in the base year shall result in a partial recapture of benefits.

(2) When the taxpayer has met the required levels of employment and investment contained in the agreement for a tier 1, tier 2, tier 4, or tier 5 project, the taxpayer shall be entitled to the following incentives:

(a) A refund of all sales and use taxes for a tier 2, tier 4, or tier 5 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 from the date of the application through the meeting of the required levels of employment and investment for all purchases, including rentals, of:

(i) Qualified property used as a part of the project;

(ii) Property, excluding motor vehicles, based in this state and used in both this state and another state in connection with the project except when any such property is to be used for fundraising for or for the transportation of an elected official;

(iii) Tangible personal property by the owner of the improvement to real estate that is incorporated into real estate as a part of a project; and

(iv) Tangible personal property by a contractor or repairperson after appointment as a purchasing agent of the owner of the improvement to real estate. The refund shall be based on fifty percent of the contract price, excluding any land, as the cost of materials subject to the sales and use tax; and

(b) A refund of all sales and use taxes for a tier 2, tier 4, or tier 5 project or a refund of one-half of all sales and use taxes for a tier 1 project paid under the Local Option Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319, 13-324, and 13-2813 on the types of purchases, including rentals, listed in subdivision (a) of this subsection for such taxes paid during each year of the entitlement period in which the taxpayer is at or above the required levels of employment and investment.

(3) Any taxpayer who qualifies for a tier 1, tier 2, tier 3, or

tier 4 project shall be entitled to a credit equal to three percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least sixty percent of the Nebraska average annual wage for the year of application. The credit shall equal four percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least seventy-five percent of the Nebraska average annual wage for the year of application. The credit shall equal five percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred percent of the Nebraska average annual wage for the year of application. The credit shall equal six percent times the average wage of new employees times the number of new employees if the average wage of the new employees equals at least one hundred twenty-five percent of the Nebraska average annual wage for the year of application. For computation of such credit:

(a) Average annual wage means the total compensation paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application divided by the number of equivalent employees making up such total compensation;

(b) Average wage of new employees means the average annual wage paid to employees during the year at the project who are not base-year employees and who are paid wages equal to at least sixty percent of the Nebraska average weekly wage for the year of application; and

(c) Nebraska average annual wage means the Nebraska average weekly wage times fifty-two.

(4) Any taxpayer who has met the required levels of employment and investment for a tier 2 or tier 4 project shall receive a credit equal to ten percent of the investment made in qualified property at the project. Any taxpayer who has met the required levels of investment and employment for a tier 1 project shall receive a credit equal to three percent of the investment made in qualified property at the project.

(5) The credits prescribed in subsections (3) and (4) of this section shall be allowable for compensation paid and investments made during each year of the entitlement period that the taxpayer is at or above the required levels of employment and investment.

(6) The credit prescribed in subsection (4) of this section shall also be allowable during the first year of the entitlement period for investment in qualified property at the project after the date of the application and before the required levels of employment and investment were met.

(7)(a) A taxpayer who has met the required levels of employment and investment for a tier 4 project shall receive the incentive provided in this subsection. Such investment and hiring of new employees shall be considered a required level of investment and employment for this subsection and for the recapture of benefits under this subsection only.

(b) The following property used in connection with such project or projects and acquired by the taxpayer, whether by lease or purchase, after the date the application was filed shall constitute separate classes of personal property:

(i) Turbine-powered aircraft, including turboprop, turbojet, and turbofan aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;

(ii) Computer systems, made up of equipment that is interconnected in order to enable the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data involving computer software and hardware, used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user. A computer system includes peripheral components which require environmental controls of temperature and power connected to such computer systems. Peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, data switches, and communication controllers;

(iii) Depreciable personal property used for a distribution facility, including, but not limited to, storage racks, conveyor mechanisms, forklifts, and other property used to store or move products; and

(iv) Personal property which is business equipment located in a single project if the business equipment is involved directly in the manufacture or processing of agricultural products.

(c) Such property shall be eligible for exemption from the tax on personal property from the first January 1 following the date of acquisition

for property in subdivision (7)(b)(i) of this section, or from the first January 1 following the end of the year during which the required levels were exceeded for property in subdivisions (7)(b)(ii), (iii), and (iv) of this section, through the ninth December 31 after the first year any property included in subdivisions (7)(b)(ii), (iii), and (iv) of this section qualifies for the exemption. In order to receive the property tax exemptions allowed by subdivisions (7)(b)(i), (ii), (iii), and (iv) of this section, the taxpayer shall annually file a claim for exemption with the Tax Commissioner on or before May 1. The form and supporting schedules shall be prescribed by the Tax Commissioner and shall list all property for which exemption is being sought under this section. A separate claim for exemption must be filed for each project and each county in which property is claimed to be exempt. A copy of this form must also be filed with the county assessor in each county in which the applicant is requesting exemption. The Tax Commissioner shall determine the eligibility of each item listed for exemption and, on or before August 10, ~~10~~ 1 certify such to the taxpayer and to the affected county assessor. In determining the eligibility of items of personal property for exemption, the Tax Commissioner is limited to the question of whether the property claimed as exempt by the taxpayer falls within the classes of property described in subdivision (7)(b) of this section. The determination of whether a taxpayer is eligible to obtain exemption for personal property based on meeting the required levels of investment and employment is the responsibility of the Tax Commissioner.

(8) The investment thresholds in this section for a particular year of application shall be adjusted by the method provided in this subsection. Beginning October 1, 2006, and each October 1 thereafter, the Producer Price Index for all commodities, published by the United States Department of Labor, Bureau of Labor Statistics, for the most recent available period shall be divided by the Producer Price Index for the first quarter of 2006 and the result multiplied by the applicable investment threshold. The investment thresholds shall be adjusted for cumulative inflation since 2006. If the resulting amount is not a multiple of one million dollars, the amount shall be rounded to the next lowest one million dollars. The investment thresholds established by this subsection apply for purposes of project qualifications for all applications filed on or after January 1 of the following year for all years of the project. Adjustments do not apply to projects after the year of application.

Sec. 23. Section 81-1316, Revised Statutes Supplement, 2007, is amended to read:

81-1316 (1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;
- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;
- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;
- (o) All personnel of the University of Nebraska;
- (p) All personnel of the Coordinating Commission for Postsecondary Education;
- (q) All personnel of the Governor's Policy Research Office, but not to include personnel within the State Energy Office;
- (r) All personnel of the Commission on Public Advocacy;
- (s) All agency heads;
- (t) (i) The Director of Behavioral Health of the Division of Behavioral Health; (ii) the Director of Children and Family Services of the Division of Children and Family Services; (iii) the Director of Developmental Disabilities of the Division of Developmental Disabilities; (iv) the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care; (v) the Director of Public Health of the Division of Public Health; and (vi) the Director of Veterans' Homes of the Division of Veterans' Homes;
- (u) The chief medical officer established under section 81-3115, the

Administrator of the Office of Juvenile Services, and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home, Eastern Nebraska Veterans' Home, Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth Rehabilitation and Treatment Center-Geneva;

(v) All personnel employed as pharmacists, physicians, psychiatrists, psychologists, service area administrators, or facility operating officers of the Department of Health and Human Services; ~~and~~

(w) Deputies and examiners of the Department of Banking and Finance and the Department of Insurance as set forth in sections 8-105 and 44-119, except for those deputies and examiners who remain in the State Personnel System; ~~and-~~

(x) All personnel of the Tax Equalization and Review Commission.

(2) At each agency head's discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency Employees	Number of Noncovered Positions
less than 25	0
25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
1001 to 2000	5
2001 to 3000	8
3001 to 4000	11
4001 to 5000	14
over 5000	25

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head.

(3) No changes to this section or to the number of noncovered positions within an agency shall affect the status of personnel employed on the date the changes become operative without their prior written agreement. A state employee's career protections or coverage by personnel rules and regulations shall not be revoked by redesignation of the employee's position as a noncovered position without the prior written agreement of such employee.

Sec. 24. Sections 1 and 25 of this act become operative on January 1, 2009. The other sections of this act become operative on their effective date.

Sec. 25. Original section 76-214, Revised Statutes Supplement, 2007, is repealed.

Sec. 26. Original sections 77-115, 77-1201, 77-1202.01, 77-1210, 77-1214, 77-1219, 77-1230, 77-1233.02, 77-1233.03, and 77-1734.01, Reissue Revised Statutes of Nebraska, sections 77-1234, 77-1345.01, 77-1502, 77-1504.01, and 77-5019, Revised Statutes Cumulative Supplement, 2006, and sections 77-1233.04, 77-1233.06, 77-1736.06, 77-4105, 77-5004, 77-5725, and 81-1316, Revised Statutes Supplement, 2007, are repealed.

Sec. 27. The following section is outright repealed: Section 77-202.13, Revised Statutes Supplement, 2007.

Sec. 28. Since an emergency exists, this act takes effect when passed and approved according to law.