

LEGISLATIVE BILL 193

Approved by the Governor May 25, 1983

Introduced by Revenue Committee, Carsten, 2, Chairperson;
V. Johnson, 8; Hannibal, 4; Landis, 46;
Pappas, 42; Lundy, 36; Sieck, 24;
Hefner, 19

AN ACT to amend sections 77-624, 77-625, 77-628, 77-629, 77-630, 77-631, 77-631.02, 77-1249, and 77-1250, Reissue Revised Statutes of Nebraska, 1943, relating to revenue and taxation; to change provisions relating to certain railroad and air carrier taxes; to provide certain property tax refund procedures; to harmonize provisions; to repeal the original sections; and to declare an emergency.

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

Section 1. That section 77-624, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-624. The president or other chief officer of every car company, mercantile or other company, or corporation, other than a railroad company operating a line of railroad, and every firm, corporation, or individual owning or operating any railroad cars, except sleeping cars, through, in, or into the State of Nebraska shall, on or before April 15 of each year, make to the State Board of Equalization and Assessment a true, full, and accurate statement, verified by the affidavit of the officer or person making it, showing (1) the aggregate number of miles made by each class of their cars on the several lines of railroad in this state during the preceding year ending December 31, (2) the average number of miles traveled per day by the cars of a particular class covered by the statement in the ordinary course of business during the year the aggregate number of miles made by each class of their cars on all railroad lines during the preceding year ending December 31, and (3) the total number of cars of each class owned by the company, individual, or firm. No other method of allocation shall be used.

For good cause shown, the Tax Commissioner may allow an extension of time in which to file such statement.

Sec. 2. That section 77-625, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-625. The president or other chief officer of every railroad company whose lines run through or into this state shall, on or before April 15 of each year, furnish to the State Board of Equalization and Assessment a statement, verified by the affidavit of the officer or person making the statement, showing the total number of miles traveled by each class of the cars of every such car company, mercantile or other company, firm, or individual on their lines, branches, sidings, spurs, and warehouse tracks in this state during the preceding year ending December 31. For good cause shown, the Tax Commissioner may allow an extension of time in which to file such statement.

Sec. 3. That section 77-628, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-628. For the purpose of ascertaining the average rate of all general taxes provided for in section 77-629, the county official who prepares the tax list of each county shall certify to the State Board of Equalization and Assessment, on or before December 1 of each year, the total valuation, the respective levies, and the total amount of all general taxes, county, municipal, school, and local, and, for statistical purposes, any other information deemed necessary by the Tax Commissioner as shown on the tax lists of the county for the current year, on forms prescribed and furnished by the Tax Commissioner.

Sec. 4. That section 77-629, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-629. The Tax Commissioner shall each year make a levy, for purposes of taxation, against the value assessed and determined to exist in the state as provided in sections 77-626 and 77-627, at a rate which shall be equal, as nearly as may be, to the average rate of all general taxes, county, municipal, school, and local, levied throughout the several taxing districts of the state for the preceding current year. When such rate of levy shall have been determined, the Tax Commissioner shall cause to be sent to each owner or operator of car line property a statement of the amount of valuation or assessment, the rate of the levy, and the amount of the tax, which tax so found and notified is required to be due and payable paid to the Tax Commissioner; within the time provided for the payment of general personal property taxes on December 31 next

following the levy thereof, who shall remit the same, less a three per cent collection fee, to the State Treasurer for distribution among the counties, proportionate to the populations thereof, for credit to the general fund. The collection fee shall be remitted to the State Treasurer for credit to the Tax Commissioner Revolving Fund. The Tax Commissioner may issue a distress warrant to compel payment of the same which may be served by any sheriff, any member of the Nebraska State Patrol, or any person specially deputized by the Tax Commissioner to serve the same. At the time of paying the tax the Tax Commissioner shall issue a receipt therefor in duplicate, one of which shall be given to the taxpayer and one filed with the State Treasurer at the time the tax collected is paid by the Tax Commissioner to the state treasury.

Sec. 5. The Tax Commissioner may issue a distress warrant to compel payment of the tax required by section 77-629 which may be served by any sheriff, any member of the Nebraska State Patrol, or any person specially deputized by the Tax Commissioner to serve such warrant. At the time the tax is paid, the Tax Commissioner shall issue a receipt in duplicate, one of which shall be given to the taxpayer and one filed with the State Treasurer at the time the tax collected is paid by the Tax Commissioner to the state treasury.

Sec. 6. That section 77-630, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-630. The Tax Commissioner, on or before December 31 of October 4 each year, shall certify to the State Treasurer the names of the owners and the several amounts of taxes levied under the provisions of section 77-629.

Sec. 7. That section 77-631, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-631. In the event that One half of the taxes levied, as provided in section 77-629, shall not have been paid on or before December 4 of the year in which levied, they shall become delinquent February 1, and the second half on July 1, next following the date the tax has become due and payable. All delinquent taxes and shall bear interest thereafter 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 they become delinquent, and the interest shall be collected in the same manner as the tax on which the interest accrues. If such taxes and interest due thereon shall not have been paid on July 1 February 4 following the levy thereof, the Tax Commissioner shall collect the same by distress and sale of any property belonging to such delinquent owner in the same manner as

is required of county treasurers and county sheriffs in like cases.

Sec. 8. That section 77-631.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-631.02. If any such taxes and interest and penalties due thereon shall not have been paid on February 4 July 1, following the levy thereof, the total amount shall be a lien in favor of the State of Nebraska upon all money and credits belonging to such companies, firms, or individuals, until the liability therefor is satisfied or otherwise discharged, and it shall be lawful for the Tax Commissioner or his or her designated agent to collect such total amount by issuing a distress warrant and making levy upon all money and credits, belonging to such companies, firms, or individuals.

Sec. 9. That section 77-1249, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1249. The Tax Commissioner shall each year make a levy for purposes of taxation against the value so ascertained and determined by the Tax Commissioner, as provided in section 77-1248, at a rate which shall be equal, as nearly as may be, to the average rate of all general taxes, county, municipal, school, and local, levied throughout the several taxing districts of the state for the current tax preceding year.

Sec. 10. That section 77-1250, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1250. When The tax levied, pursuant to section 77-1249 the tax shall be collected and paid due and payable to the Tax Commissioner; resitted on December 31 next following the date of levy of such tax and shall be a first lien from that date on the personal property, both tangible and intangible, of the person assessed until paid. The Tax Commissioner shall remit the tax paid to the State Treasurer, and the tax collected, less a three per cent collection fee, shall be distributed to the counties to the credit of the county general fund proportionate to the amount the total property taxes levied in actual valuation of the county bears to the total property taxes levied in the state as a whole, as determined pursuant to section 77-628. The collection fee shall be credited by resitted to the State Treasurer for credit to the Tax Commissioner Revolving Fund.

Sec. 11. One half of the taxes levied and due under sections 77-1249 and 77-1250 shall become delinquent February 1, and the second half on July 1, next following the date the tax has become due.

All delinquent taxes shall draw interest from the date they become delinquent at a rate equal to the

maximum rate of interest allowed per annum under section 45-104.01, as such rate may from time to time be adjusted by the Legislature, and the interest shall be collected and distributed the same as the tax on which the interest accrues. If such taxes and interest due thereon shall not have been paid on July 1 following the levy thereof, the Tax Commissioner shall collect the same by distress and sale of any property belonging to such delinquent person in like manner as provided in sections 77-631 to 77-631.04.

Sec. 12. (1) When any demand to refund property taxes paid is made upon the Tax Commissioner, the Tax Commissioner shall immediately transmit a copy of such demand along with the Tax Commissioner's recommendation to the State Board of Equalization and Assessment, who shall approve the refund if the board finds the tax or a part of such tax to be invalid for any reason. Upon approval of the refund, the Tax Commissioner shall cause a refund to be paid from the fund to which the tax was originally deposited. If there are insufficient funds available at such time, the taxpayer shall be allowed a credit against the subsequent year's taxes. If the taxpayer does not have a tax liability in such subsequent year, or if the liability does not exceed the amount of the refund, then a refund of the balance shall be paid as soon as sufficient funds have been deposited into the fund.

(2) The State Board of Equalization and Assessment shall make its determination within one hundred twenty days of filing the claim for a refund. Such claim for a refund shall be considered a contested case pursuant to Chapter 84, article 9.

(3) If the refund claim is denied in whole or part, the taxpayer may appeal to the district court pursuant to the provisions of Chapter 84, article 9. If, at the trial, it shall be determined that such tax or any part of such tax was invalid, judgment shall be rendered in the amount of the refund claim with interest and such judgment shall be collected as in other cases.

Sec. 13. If a person pays property tax or makes payments in lieu of tax with respect to property, or any part of such tax, because of a clerical error, misunderstanding, or honest mistake or if the payment of such tax is invalid for any reason, such person may, within two years of the date such taxes were due, present to the Tax Commissioner a written demand for a refund or return of such payment.

Sec. 14. If a judgment or final court order as described in section 77-1736.04 affects any property taxes collected by the Tax Commissioner, then for the purposes of such taxes, the provisions of section 77-1736.04 shall apply, except that the Tax Commissioner shall perform the functions of the county assessor and

county treasurer and the State Board of Equalization and Assessment shall perform the functions of the county board.

Sec. 15. That original sections 77-624, 77-625, 77-628, 77-629, 77-630, 77-631, 77-631.02, 77-1249, and 77-1250, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 16. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.