

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 338

Introduced by Brasch, 16; at the request of the Governor.

Read first time January 12, 2017

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 46-294.03, 77-103.01, 77-1507.01, 77-5023, and 79-1016, Reissue
3 Revised Statutes of Nebraska, and sections 76-710.04, 77-201,
4 77-1327, 77-1359, 77-1363, 77-1371, 77-1502, 77-4212, 77-5007,
5 77-5022, and 79-1036, Revised Statutes Cumulative Supplement, 2016;
6 to adopt the Agricultural Valuation Fairness Act; to change and
7 eliminate provisions relating to the valuation of agricultural land
8 and horticultural land and protests of such valuation; to change the
9 Tax Equalization and Review Commission Act; to harmonize provisions;
10 to provide an operative date; to repeal the original sections; and
11 to outright repeal sections 77-1343, 77-1344, 77-1345, 77-1345.01,
12 77-1346, and 77-1347.01, Reissue Revised Statutes of Nebraska, and
13 section 77-1347, Revised Statutes Cumulative Supplement, 2016.
14 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and may be
2 cited as the Agricultural Valuation Fairness Act.

3 Sec. 2. Pursuant to Article VIII, section 1, subdivisions (4) and
4 (5) of the Constitution of Nebraska, the Legislature finds and declares
5 that:

6 (1) The agricultural industry is a vital part of the economy of this
7 state;

8 (2) The nature of the agricultural industry and commodity prices
9 affect the value of agricultural land and horticultural land;

10 (3) All agricultural land and horticultural land in Nebraska has an
11 actual value as defined in section 77-112 reflecting purposes or uses
12 other than agricultural or horticultural purposes or uses;

13 (4) Market influences to use agricultural land and horticultural
14 land for purposes other than agricultural or horticultural purposes are
15 present throughout the state and cause the prices paid for agricultural
16 land and horticultural land to exceed the value such land has for
17 agricultural or horticultural purposes;

18 (5) The best and most uniform way to exclude any value that
19 agricultural land and horticultural land has for purposes other than
20 agricultural or horticultural purposes is to rely on the income-producing
21 characteristics of the land; and

22 (6) Agricultural land and horticultural land should be assessed at
23 its agricultural use value using an income approach that complies with
24 professionally accepted mass appraisal techniques.

25 Sec. 3. For purposes of the Agricultural Valuation Fairness Act:

26 (1) Agricultural land and horticultural land means a parcel of land,
27 excluding land associated with a building or enclosed structure located
28 on the parcel, which is primarily used for agricultural or horticultural
29 purposes, including wasteland lying in or adjacent to and in common
30 ownership or management with other agricultural land and horticultural
31 land;

1 (2) Agricultural or horticultural purposes means used for the
2 commercial production of any plant or animal product in a raw or
3 unprocessed state that is derived from the science and art of
4 agriculture, aquaculture, or horticulture. Agricultural or horticultural
5 purposes includes the following uses of land:

6 (a) Land retained or protected for future agricultural or
7 horticultural purposes under a conservation easement approved as required
8 by section 76-2,112 except when the parcel or a portion thereof is being
9 used for purposes other than agricultural or horticultural purposes; and

10 (b) Land enrolled in a federal or state program in which payments
11 are received for removing such land from agricultural or horticultural
12 production;

13 (3) Agricultural use value means the value of land for agricultural
14 or horticultural purposes or uses without regard to the value of such
15 land for other purposes or uses as determined pursuant to the
16 Agricultural Valuation Fairness Act;

17 (4) Farm home site means land contiguous to a farm site which
18 includes an inhabitable residence and improvements used for residential
19 purposes and which is located outside of urban areas or outside a platted
20 and zoned subdivision; and

21 (5) Farm site means the portion of land contiguous to land actively
22 devoted to agriculture which includes improvements that are agricultural
23 or horticultural in nature, including any uninhabitable or unimproved
24 farm home site.

25 Sec. 4. Section 77-1359, Revised Statutes Cumulative Supplement,
26 2016, is amended to read:

27 ~~77-1359 The Legislature finds and declares that~~

28 (1) Agricultural agricultural land and horticultural land shall be a
29 separate and distinct class of real property for purposes of assessment.

30 (2) The assessed value of agricultural land and horticultural land
31 shall not be uniform and proportionate with all other real property, but

1 the assessed value shall be uniform and proportionate within the class of
2 agricultural land and horticultural land.

3 (3) Agricultural land and horticultural land shall be valued at its
4 agricultural use value as determined pursuant to the Agricultural
5 Valuation Fairness Act regardless of any value which such land might have
6 for purposes other than agricultural or horticultural purposes.

7 (4) In order for land to receive agricultural use value, all of the
8 following criteria must be met:

9 (a) The land must be located outside the corporate boundaries of any
10 sanitary and improvement district, city, or village except as provided in
11 subsection (5) of this section; and

12 (b) The land must be used for agricultural or horticultural
13 purposes.

14 (5) Agricultural use value may be applied to agricultural land and
15 horticultural land included within the corporate boundaries of a city or
16 village if the land is subject to a conservation or preservation easement
17 as provided in the Conservation and Preservation Easements Act and the
18 governing body of the city or village approves the agreement creating the
19 easement.

20 (6) The eligibility of land for agricultural use value shall be
21 determined each year as of January 1. If land so qualified becomes
22 disqualified on or before December 31 of that year, it shall continue to
23 receive agricultural use value until January 1 of the year following.

24 ~~For purposes of this section and section 77-1363:~~

25 ~~(1) Agricultural land and horticultural land means a parcel of land,~~
26 ~~excluding land associated with a building or enclosed structure located~~
27 ~~on the parcel, which is primarily used for agricultural or horticultural~~
28 ~~purposes, including wasteland lying in or adjacent to and in common~~
29 ~~ownership or management with other agricultural land and horticultural~~
30 ~~land;~~

31 ~~(2) Agricultural or horticultural purposes means used for the~~

1 ~~commercial production of any plant or animal product in a raw or~~
2 ~~unprocessed state that is derived from the science and art of~~
3 ~~agriculture, aquaculture, or horticulture. Agricultural or horticultural~~
4 ~~purposes includes the following uses of land:~~

5 ~~(a) Land retained or protected for future agricultural or~~
6 ~~horticultural purposes under a conservation easement as provided in the~~
7 ~~Conservation and Preservation Easements Act except when the parcel or a~~
8 ~~portion thereof is being used for purposes other than agricultural or~~
9 ~~horticultural purposes; and~~

10 ~~(b) Land enrolled in a federal or state program in which payments~~
11 ~~are received for removing such land from agricultural or horticultural~~
12 ~~production;~~

13 ~~(3) Farm home site means land contiguous to a farm site which~~
14 ~~includes an inhabitable residence and improvements used for residential~~
15 ~~purposes and which is located outside of urban areas or outside a platted~~
16 ~~and zoned subdivision; and~~

17 ~~(4) Farm site means the portion of land contiguous to land actively~~
18 ~~devoted to agriculture which includes improvements that are agricultural~~
19 ~~or horticultural in nature, including any uninhabitable or unimproved~~
20 ~~farm home site.~~

21 Sec. 5. Section 77-1363, Revised Statutes Cumulative Supplement,
22 2016, is amended to read:

23 77-1363 (1) The county assessor shall use an income-approach
24 calculation to determine the agricultural use value for each assessment
25 year. The income-approach calculation shall be consistent with the
26 Agricultural Valuation Fairness Act and any rules and regulations adopted
27 and promulgated by the Tax Commissioner pursuant to the act and shall
28 comply with professionally accepted mass appraisal techniques.

29 (2) For purposes of assessing agricultural land and horticultural
30 land using the income-approach calculation, agricultural Agricultural
31 land and horticultural land shall be divided into classes and subclasses

1 of real property under section 77-103.01, including, but not limited to,
2 irrigated cropland, dryland cropland, grassland, wasteland, nurseries,
3 feedlots, and orchards, so that the categories reflect uses appropriate
4 for the valuation of such land according to law. Classes shall be
5 inventoried by subclasses of real property based on soil classification
6 standards developed by the Natural Resources Conservation Service of the
7 United States Department of Agriculture as converted into land capability
8 groups by the Property Tax Administrator.

9 (3) County assessors shall use the range of incomes for land
10 capability groups and the capitalization rates determined by the Property
11 Tax Administrator in determining the agricultural use value of
12 agricultural land and horticultural land utilize soil surveys from the
13 Natural Resources Conservation Service of the United States Department of
14 Agriculture as directed by the Property Tax Administrator.

15 (4) Nothing in this section shall be construed to limit the classes
16 and subclasses of real property that may be used by county assessors or
17 the Tax Equalization and Review Commission to achieve more uniform and
18 proportionate valuations.

19 Sec. 6. The Property Tax Administrator may solicit information on
20 the sale of any agricultural land and horticultural land beyond the
21 information reported pursuant to section 77-1327. The Property Tax
22 Administrator shall, after reviewing all such information, establish a
23 range of net incomes for all land capability groups in the state, by
24 county and by land use, based on the previous ten years' information. The
25 income ranges shall be based on the average yield information for the ten
26 prior years published by the United States Department of Agriculture for
27 those commodities appropriate for each land capability group. The
28 Property Tax Administrator shall also consider prices for each commodity
29 on which the average yield is based. The Property Tax Administrator shall
30 issue a report of his or her findings and recommendations to each county
31 assessor in Nebraska no later than January 1 of each year.

1 Sec. 7. The Property Tax Administrator shall establish the
2 capitalization rates to be applied to each class or subclass of
3 agricultural land and horticultural land within each county. The Property
4 Tax Administrator shall ensure that the capitalization rates established
5 under this section result in an aggregate agricultural use value for the
6 class of agricultural land and horticultural land that is between sixty
7 and seventy-five percent of the actual value that the agricultural land
8 and horticultural land has for agricultural or horticultural purposes.
9 However, the aggregate agricultural use value so established shall not
10 increase more than three and one-half percent from the prior year.

11 Sec. 8. (1) The county assessor shall determine the appropriate
12 income for each land capability group in the county that falls within the
13 applicable income range established by the Property Tax Administrator
14 under section 6 of this act. The income so determined for each parcel
15 shall be divided by the applicable capitalization rate set by the
16 Property Tax Administrator under section 7 of this act. The resulting
17 value for each parcel shall be reported on the abstract of real property
18 pursuant to section 77-1514.

19 (2) If a county assessor, based on the facts and circumstances,
20 believes that the income range for a land capability group as determined
21 by the Property Tax Administrator under section 6 of this act results in
22 values that are not uniform and proportionate within the class of
23 agricultural land and horticultural land, the county assessor may
24 petition the Tax Commissioner, on or before February 1, for an
25 alternative income range to be applied to that land capability group. The
26 county assessor shall show that the use of the Property Tax
27 Administrator's income range as determined under section 6 of this act
28 results in agricultural use values that are not uniform and
29 proportionate. The Tax Commissioner shall issue a written order to the
30 county assessor no later than March 1.

31 (3) If the Property Tax Administrator, based on the facts and

1 circumstances, believes that any agricultural use value as determined by
2 the county assessor does not comply with the requirements of the
3 Agricultural Valuation Fairness Act, the Property Tax Administrator may
4 petition the Tax Commissioner, on or before April 1, for an order to
5 adjust the agricultural use value to achieve compliance with the act. The
6 Tax Commissioner shall issue a written order to the Property Tax
7 Administrator no later than May 1.

8 (4) Upon receipt of a petition by either the county assessor or the
9 Property Tax Administrator under this section, the Tax Commissioner shall
10 set a date for hearing and shall give notice thereof to the county
11 assessor or Property Tax Administrator, as applicable. The hearing shall
12 be held at least five days following the mailing of such notice. At the
13 hearing, the county assessor, the Property Tax Administrator, or their
14 legal representatives may appear and show cause why the class or subclass
15 of agricultural land and horticultural land in the county should or
16 should not be adjusted. At the hearing, the Tax Commissioner may receive
17 testimony from any interested person. The Tax Commissioner's order may be
18 appealed within thirty days after the date of the order to the Tax
19 Equalization and Review Commission in accordance with section 77-5013.

20 (5) If, after the implementation of the orders described in
21 subsections (2) and (3) of this section, the Tax Commissioner finds that
22 the aggregate agricultural use value of the entire class of agricultural
23 land and horticultural land either (a) is not between sixty and seventy-
24 five percent of the aggregate actual value that the agricultural land and
25 horticultural land has for agricultural or horticultural purposes or (b)
26 exceeds the prior year's aggregate agricultural use value of the entire
27 class of agricultural land and horticultural land by more than three and
28 one-half percent, the Tax Commissioner shall issue an order to each
29 county in the state to uniformly adjust the capitalization rate to comply
30 with the requirements of section 7 of this act.

31 Sec. 9. The Tax Commissioner may adopt and promulgate rules and

1 regulations as necessary to carry out the Agricultural Valuation Fairness
2 Act.

3 Sec. 10. Section 19-2428, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 19-2428 (1) Whenever the governing body of a city of the first or
6 second class or village creates an improvement district as specified in
7 section 19-2427 which includes land adjacent to such city or village and
8 such adjacent land is within an agricultural use zone and is used
9 exclusively for agricultural use, the owners of record title of such
10 adjacent land may apply for a deferral from special assessments pursuant
11 to sections 19-2428 to 19-2431.

12 (2) For purposes of sections 19-2428 to 19-2431:

13 (a) Agricultural use means the use of land as described in section 3
14 of this act 77-1359, so that incidental use of the land for
15 nonagricultural or nonhorticultural purposes shall not disqualify the
16 land; and

17 (b) Agricultural use zone means designation of any land
18 predominantly for agricultural or horticultural use by any political
19 subdivision pursuant to sections 19-924 to 19-933, Chapter 14, article 4,
20 Chapter 15, article 9, Chapter 16, article 9, Chapter 17, article 10, or
21 Chapter 23, article 1. The primary objective of the agricultural use
22 zoning shall be to preserve and protect agricultural activities and the
23 potential for the agricultural, horticultural, or open use of land. Uses
24 to be allowed on such lands include primarily agricultural-related or
25 horticultural-related uses, and nonagricultural or nonhorticultural
26 industrial, commercial, or residential uses allowed on such lands shall
27 be restricted so that they do not conflict with or detract from this
28 objective.

29 Sec. 11. Section 46-294.03, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 46-294.03 For purposes of assessment pursuant to the Agricultural

1 ~~Valuation Fairness Act sections 77-1343 to 77-1363~~, neither the temporary
2 transfer or change of an appropriation nor any resulting land-use changes
3 on the land to which the appropriation was appurtenant prior to the
4 transfer or change shall cause the land to be reclassified to a lower
5 value use or the valuation of the land to be reduced, but the land may be
6 reclassified to a higher value use and its valuation may be increased if
7 a higher value use is made of the land while the temporary transfer or
8 change is in effect. Land from which an appropriation has been
9 permanently transferred shall be classified and valued for tax purposes
10 in accordance with the use of the land after the transfer.

11 Sec. 12. Section 76-710.04, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 76-710.04 (1) A condemner may not take property through the use of
14 eminent domain under sections 76-704 to 76-724 if the taking is primarily
15 for an economic development purpose.

16 (2) For purposes of this section, economic development purpose means
17 taking property for subsequent use by a commercial for-profit enterprise
18 or to increase tax revenue, tax base, employment, or general economic
19 conditions.

20 (3) This section does not affect the use of eminent domain for:

21 (a) Public projects or private projects that make all or a major
22 portion of the property available for use by the general public or for
23 use as a right-of-way, aqueduct, pipeline, transmission line, or similar
24 use;

25 (b) Removing harmful uses of property if such uses constitute an
26 immediate threat to public health and safety;

27 (c) Leasing property to a private person who occupies an incidental
28 part of public property or a public facility, such as a retail
29 establishment on the ground floor of a public building;

30 (d) Acquiring abandoned property;

31 (e) Clearing defective property title;

1 (f) Taking private property for use by a utility or railroad;

2 (g) Taking private property based upon a finding of blighted or
3 substandard conditions under the Community Development Law if the private
4 property is not agricultural land and ~~or~~ horticultural land as defined in
5 section 3 of this act 77-1359; and

6 (h) Taking private property for a transmission line to serve a
7 privately developed facility generating electricity using wind, solar,
8 biomass, or landfill gas. Nothing in this subdivision shall be construed
9 to grant the power of eminent domain to a private entity.

10 Sec. 13. Section 77-103.01, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 77-103.01 Class or subclass of real property means a group of
13 properties that share one or more characteristics typically common to all
14 the properties in the class or subclass, but are not typically found in
15 the properties outside the class or subclass. Class or subclass includes,
16 but is not limited to, the classifications of agricultural land and ~~or~~
17 horticultural land listed in section 5 of this act 77-1363, parcel use,
18 parcel type, location, geographic characteristics, zoning, city size,
19 parcel size, land capability group, and market characteristics
20 appropriate for the valuation of such land. A class or subclass based on
21 market characteristics shall be based on characteristics that affect the
22 actual value in a different manner than it affects the actual value of
23 properties not within the market characteristic class or subclass.

24 Sec. 14. Section 77-201, Revised Statutes Cumulative Supplement,
25 2016, is amended to read:

26 77-201 (1) Except as provided in subsections (2) and (3) ~~through (4)~~
27 of this section, all real property in this state, not expressly exempt
28 therefrom, shall be subject to taxation and shall be valued at its actual
29 value.

30 (2) Agricultural land and horticultural land as defined in section 3
31 of this act 77-1359 shall constitute a separate and distinct class of

1 property for purposes of property taxation, shall be subject to taxation,
2 unless expressly exempt from taxation, and shall be valued at ~~seventy-~~
3 ~~five percent of its agricultural use actual value as provided in the~~
4 Agricultural Valuation Fairness Act.

5 ~~(3) Agricultural land and horticultural land actively devoted to~~
6 ~~agricultural or horticultural purposes which has value for purposes other~~
7 ~~than agricultural or horticultural uses and which meets the~~
8 ~~qualifications for special valuation under section 77-1344 shall~~
9 ~~constitute a separate and distinct class of property for purposes of~~
10 ~~property taxation, shall be subject to taxation, and shall be valued for~~
11 ~~taxation at seventy five percent of its special value as defined in~~
12 ~~section 77-1343.~~

13 ~~(3)~~ (4) Historically significant real property which meets the
14 qualifications for historic rehabilitation valuation under sections
15 77-1385 to 77-1394 shall be valued for taxation as provided in such
16 sections.

17 ~~(4)~~ (5) Tangible personal property, not including motor vehicles,
18 trailers, and semitrailers registered for operation on the highways of
19 this state, shall constitute a separate and distinct class of property
20 for purposes of property taxation, shall be subject to taxation, unless
21 expressly exempt from taxation, and shall be valued at its net book
22 value. Tangible personal property transferred as a gift or devise or as
23 part of a transaction which is not a purchase shall be subject to
24 taxation based upon the date the property was acquired by the previous
25 owner and at the previous owner's Nebraska adjusted basis. Tangible
26 personal property acquired as replacement property for converted property
27 shall be subject to taxation based upon the date the converted property
28 was acquired and at the Nebraska adjusted basis of the converted property
29 unless insurance proceeds are payable by reason of the conversion. For
30 purposes of this subsection, (a) converted property means tangible
31 personal property which is compulsorily or involuntarily converted as a

1 result of its destruction in whole or in part, theft, seizure,
2 requisition, or condemnation, or the threat or imminence thereof, and no
3 gain or loss is recognized for federal or state income tax purposes by
4 the holder of the property as a result of the conversion and (b)
5 replacement property means tangible personal property acquired within two
6 years after the close of the calendar year in which tangible personal
7 property was converted and which is, except for date of construction or
8 manufacture, substantially the same as the converted property.

9 Sec. 15. Section 77-1327, Revised Statutes Cumulative Supplement,
10 2016, is amended to read:

11 77-1327 (1) It is the intent of the Legislature that accurate and
12 comprehensive information be developed by the Property Tax Administrator
13 and made accessible to the taxing officials and property owners in order
14 to ensure the uniformity and proportionality of the assessments of real
15 property valuations in the state in accordance with law and to provide
16 the statistical and narrative reports pursuant to section 77-5027.

17 (2) All transactions of real property for which the statement
18 required in section 76-214 is filed shall be available for development of
19 a sales file by the Property Tax Administrator. All transactions with
20 stated consideration of more than one hundred dollars or upon which more
21 than two dollars and twenty-five cents in documentary stamp taxes are
22 paid shall be considered sales. All sales shall be deemed to be arm's
23 length transactions unless determined to be otherwise under
24 professionally accepted mass appraisal techniques. The Department of
25 Revenue shall not overturn a determination made by a county assessor
26 regarding the qualification of a sale unless the department reviews the
27 sale and determines through the review that the determination made by the
28 county assessor is incorrect.

29 (3) The Property Tax Administrator annually shall make and issue
30 comprehensive assessment ratio studies of the average level of
31 assessment, the degree of assessment uniformity, and the overall

1 compliance with assessment requirements for each major class of real
2 property, except agricultural land and horticultural land, that is
3 subject to the property tax in each county. The comprehensive assessment
4 ratio studies shall be developed in compliance with professionally
5 accepted mass appraisal techniques and shall employ such statistical
6 analysis as deemed appropriate by the Property Tax Administrator,
7 including measures of central tendency and dispersion. The comprehensive
8 assessment ratio studies shall be based upon the sales file as developed
9 in subsection (2) of this section and shall be used by the Property Tax
10 Administrator for the analysis of the level of value and quality of
11 assessment for purposes of section 77-5027 and by the Property Tax
12 Administrator in establishing the adjusted valuations required by section
13 79-1016. Such studies may also be used by assessing officials in
14 establishing assessed valuations.

15 ~~(4) For purposes of determining the level of value of agricultural~~
16 ~~and horticultural land subject to special valuation under sections~~
17 ~~77-1343 to 77-1347.01, the Property Tax Administrator shall annually make~~
18 ~~and issue a comprehensive study developed in compliance with~~
19 ~~professionally accepted mass appraisal techniques to establish the level~~
20 ~~of value if in his or her opinion the level of value cannot be developed~~
21 ~~through the use of the comprehensive assessment ratio studies developed~~
22 ~~in subsection (3) of this section.~~

23 (4) (5) County assessors and other taxing officials shall
24 electronically report data on the assessed valuation and other features
25 of the property assessment process for such periods and in such form and
26 content as the Property Tax Administrator shall deem appropriate. The
27 Property Tax Administrator shall so construct and maintain the system
28 used to collect and analyze the data to enable him or her to make
29 intracounty comparisons of assessed valuation, including school districts
30 and other political subdivisions, as well as intercounty comparisons of
31 assessed valuation, including school districts and other political

1 subdivisions. The Property Tax Administrator shall include analysis of
2 real property sales pursuant to land contracts and similar transfers at
3 the time of execution of the contract or similar transfer.

4 Sec. 16. Section 77-1371, Revised Statutes Cumulative Supplement,
5 2016, is amended to read:

6 77-1371 Comparable sales are recent sales of properties that are
7 similar to the property being assessed in significant physical,
8 functional, and location characteristics and in their contribution to
9 value. When using comparable sales in determining actual value of an
10 individual property under the sales comparison approach provided in
11 section 77-112, the following guidelines shall be considered in
12 determining what constitutes a comparable sale:

13 (1) Whether the sale was financed by the seller and included any
14 special financing considerations or the value of improvements;

15 (2) Whether zoning affected the sale price of the property;

16 (3) For sales of agricultural land and ~~or~~ horticultural land as
17 defined in section 3 of this act ~~77-1359~~, whether a premium was paid to
18 acquire property. A premium may be paid when proximity or tax
19 consequences cause the buyer to pay more than actual value for
20 agricultural land and ~~or~~ horticultural land;

21 (4) Whether sales or transfers made in connection with foreclosure,
22 bankruptcy, or condemnations, in lieu of foreclosure, or in consideration
23 of other legal actions should be excluded from comparable sales analysis
24 as not reflecting current market value;

25 (5) Whether sales between family members within the third degree of
26 consanguinity include considerations that fail to reflect current market
27 value;

28 (6) Whether sales to or from federal or state agencies or local
29 political subdivisions reflect current market value;

30 (7) Whether sales of undivided interests in real property or parcels
31 less than forty acres or sales conveying only a portion of the unit

1 assessed reflect current market value;

2 (8) Whether sales or transfers of property in exchange for other
3 real estate, stocks, bonds, or other personal property reflect current
4 market value;

5 (9) Whether deeds recorded for transfers of convenience, transfers
6 of title to cemetery lots, mineral rights, and rights of easement reflect
7 current market value;

8 (10) Whether sales or transfers of property involving railroads or
9 other public utility corporations reflect current market value;

10 (11) Whether sales of property substantially improved subsequent to
11 assessment and prior to sale should be adjusted to reflect current market
12 value or eliminated from such analysis; and

13 ~~(12) For agricultural land or horticultural land as defined in~~
14 ~~section 77-1359 which is or has been receiving the special valuation~~
15 ~~pursuant to sections 77-1343 to 77-1347.01, whether the sale price~~
16 ~~reflects a value which the land has for purposes or uses other than as~~
17 ~~agricultural land or horticultural land and therefor does not reflect~~
18 ~~current market value of other agricultural land or horticultural land;~~

19 (12) ~~(13)~~ Whether sales or transfers of property are in a similar
20 market area and have similar characteristics to the property being
21 assessed. ; ~~and~~

22 ~~(14) For agricultural land and horticultural land as defined in~~
23 ~~section 77-1359 which is within a class or subclass of irrigated cropland~~
24 ~~pursuant to section 77-1363, whether the difference in well capacity or~~
25 ~~in water availability due to federal, state, or local regulatory actions~~
26 ~~or limited source affected the sale price of the property. If data on~~
27 ~~current well capacity or current water availability is not available from~~
28 ~~a federal, state, or local government entity, this subdivision shall not~~
29 ~~be used to determine what constitutes a comparable sale.~~

30 The Property Tax Administrator may issue guidelines for assessing
31 officials for use in determining what constitutes a comparable sale.

1 Guidelines shall take into account the factors listed in this section and
2 other relevant factors as prescribed by the Property Tax Administrator.

3 Sec. 17. Section 77-1502, Revised Statutes Cumulative Supplement,
4 2016, is amended to read:

5 77-1502 (1) The county board of equalization shall meet for the
6 purpose of reviewing and deciding written protests filed pursuant to this
7 section beginning on or after June 1 and ending on or before July 25 of
8 each year. Protests regarding real property shall be signed and filed
9 after the county assessor's completion of the real property assessment
10 roll required by section 77-1315 and on or before June 30. For protests
11 of real property, a protest shall be filed for each parcel. Protests
12 regarding taxable tangible personal property returns filed pursuant to
13 section 77-1229 from January 1 through May 1 shall be signed and filed on
14 or before June 30. The county board in a county with a population of more
15 than one hundred thousand inhabitants based upon the most recent federal
16 decennial census may adopt a resolution to extend the deadline for
17 hearing protests from July 25 to August 10. The resolution must be
18 adopted before July 25 and it will affect the time for hearing protests
19 for that year only. By adopting such resolution, such county waives any
20 right to petition the Tax Equalization and Review Commission for
21 adjustment of a class or subclass of real property under section
22 77-1504.01 for that year.

23 (2) Each protest shall be signed and filed with the county clerk of
24 the county where the property is assessed. The protest shall contain or
25 have attached a statement of the reason or reasons why the requested
26 change should be made and a description of the property to which the
27 protest applies. If the property is real property, a description adequate
28 to identify each parcel shall be provided. If the property is tangible
29 personal property, a physical description of the property under protest
30 shall be provided. If the protest does not contain or have attached the
31 statement of the reason or reasons for the protest or the applicable

1 description of the property, the protest shall be dismissed by the county
2 board of equalization.

3 (3) Beginning January 1, 2014, in counties with a population of at
4 least one hundred fifty thousand inhabitants according to the most recent
5 federal decennial census, for a protest regarding real property, each
6 protester shall be afforded the opportunity to meet in person with the
7 county board of equalization or a referee appointed under section
8 77-1502.01 to provide information relevant to the protested property
9 value.

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

13 (5) For agricultural land and horticultural land, the county board
14 of equalization may only correct errors in those characteristics
15 affecting the income-producing capability of such land. Protests of such
16 characteristics shall be made on a form prescribed by the Tax
17 Commissioner.

18 (6) ~~(5)~~ The county clerk or county assessor shall prepare a separate
19 report on each protest. The report shall include (a) a description
20 adequate to identify the real property or a physical description of the
21 tangible personal property to which the protest applies, (b) any
22 recommendation of the county assessor for action on the protest, (c) if a
23 referee is used, the recommendation of the referee, (d) the date the
24 county board of equalization heard the protest, (e) the decision made by
25 the county board of equalization, (f) the date of the decision, and (g)
26 the date notice of the decision was mailed to the protester. The report
27 shall contain, or have attached to it, a statement, signed by the
28 chairperson of the county board of equalization, describing the basis
29 upon which the board's decision was made. The report shall have attached
30 to it a copy of that portion of the property record file which
31 substantiates calculation of the protested value unless the county

1 assessor certifies to the county board of equalization that a copy is
2 maintained in either electronic or paper form in his or her office. One
3 copy of the report, if prepared by the county clerk, shall be given to
4 the county assessor on or before August 2. The county assessor shall have
5 no authority to make a change in the assessment rolls until there is in
6 his or her possession a report which has been completed in the manner
7 specified in this section. If the county assessor deems a report
8 submitted by the county clerk incomplete, the county assessor shall
9 return the same to the county clerk for proper preparation.

10 (7) ~~(6)~~ On or before August 2, or on or before August 18 in a county
11 that has adopted a resolution to extend the deadline for hearing
12 protests, the county clerk shall mail to the protester written notice of
13 the board's decision. The notice shall contain a statement advising the
14 protester that a report of the board's decision is available at the
15 county clerk's or county assessor's office, whichever is appropriate.

16 Sec. 18. Section 77-1507.01, Reissue Revised Statutes of Nebraska,
17 is amended to read:

18 77-1507.01 Any person otherwise having a right to appeal may
19 petition the Tax Equalization and Review Commission in accordance with
20 section 77-5013, on or before December 31 of each year, to determine the
21 actual value or agricultural use special ~~special~~ value of real property for that
22 year if a failure to give notice prevented timely filing of a protest or
23 appeal provided for in sections 77-1501 to 77-1510.

24 Sec. 19. Section 77-4212, Revised Statutes Cumulative Supplement,
25 2016, is amended to read:

26 77-4212 (1) For tax year 2007, the amount of relief granted under
27 the Property Tax Credit Act shall be one hundred five million dollars.
28 For tax year 2008, the amount of relief granted under the act shall be
29 one hundred fifteen million dollars. It is the intent of the Legislature
30 to fund the Property Tax Credit Act for tax years after tax year 2008
31 using available revenue. For tax year 2017, the amount of relief granted

1 under the act shall be two hundred twenty-four million dollars. The
2 relief shall be in the form of a property tax credit which appears on the
3 property tax statement.

4 (2)(a) For tax years prior to tax year 2017, to determine the amount
5 of the property tax credit, the county treasurer shall multiply the
6 amount disbursed to the county under subdivision (4)(a) of this section
7 by the ratio of the real property valuation of the parcel to the total
8 real property valuation in the county. The amount determined shall be the
9 property tax credit for the property.

10 (b) Beginning with tax year 2017, to determine the amount of the
11 property tax credit, the county treasurer shall multiply the amount
12 disbursed to the county under subdivision (4)(b) of this section by the
13 ratio of the credit allocation valuation of the parcel to the total
14 credit allocation valuation in the county. The amount determined shall be
15 the property tax credit for the property.

16 (3) If the real property owner qualifies for a homestead exemption
17 under sections 77-3501 to 77-3529, the owner shall also be qualified for
18 the relief provided in the act to the extent of any remaining liability
19 after calculation of the relief provided by the homestead exemption. If
20 the credit results in a property tax liability on the homestead that is
21 less than zero, the amount of the credit which cannot be used by the
22 taxpayer shall be returned to the State Treasurer by July 1 of the year
23 the amount disbursed to the county was disbursed. The State Treasurer
24 shall immediately credit any funds returned under this section to the
25 Property Tax Credit Cash Fund.

26 (4)(a) For tax years prior to tax year 2017, the amount disbursed to
27 each county shall be equal to the amount available for disbursement
28 determined under subsection (1) of this section multiplied by the ratio
29 of the real property valuation in the county to the real property
30 valuation in the state. By September 15, the Property Tax Administrator
31 shall determine the amount to be disbursed under this subdivision to each

1 county and certify such amounts to the State Treasurer and to each
2 county. The disbursements to the counties shall occur in two equal
3 payments, the first on or before January 31 and the second on or before
4 April 1. After retaining one percent of the receipts for costs, the
5 county treasurer shall allocate the remaining receipts to each taxing
6 unit levying taxes on taxable property in the tax district in which the
7 real property is located in the same proportion that the levy of such
8 taxing unit bears to the total levy on taxable property of all the taxing
9 units in the tax district in which the real property is located.

10 (b) Beginning with tax year 2017, the amount disbursed to each
11 county shall be equal to the amount available for disbursement determined
12 under subsection (1) of this section multiplied by the ratio of the
13 credit allocation valuation in the county to the credit allocation
14 valuation in the state. By September 15, the Property Tax Administrator
15 shall determine the amount to be disbursed under this subdivision to each
16 county and certify such amounts to the State Treasurer and to each
17 county. The disbursements to the counties shall occur in two equal
18 payments, the first on or before January 31 and the second on or before
19 April 1. After retaining one percent of the receipts for costs, the
20 county treasurer shall allocate the remaining receipts to each taxing
21 unit based on its share of the credits granted to all taxpayers in the
22 taxing unit.

23 (5) For purposes of this section, credit allocation valuation means
24 the taxable value for all real property except agricultural land and
25 horticultural land, and one hundred twenty percent of taxable value for
26 agricultural land and horticultural land ~~that is not subject to special~~
27 ~~valuation, and one hundred twenty percent of taxable value for~~
28 ~~agricultural land and horticultural land that is subject to special~~
29 ~~valuation.~~

30 (6) The State Treasurer shall transfer from the General Fund to the
31 Property Tax Credit Cash Fund one hundred five million dollars by August

1 1, 2007, and one hundred fifteen million dollars by August 1, 2008.

2 (7) The Legislature shall have the power to transfer funds from the
3 Property Tax Credit Cash Fund to the General Fund.

4 Sec. 20. Section 77-5007, Revised Statutes Cumulative Supplement,
5 2016, is amended to read:

6 77-5007 The commission has the power and duty to hear and determine
7 appeals of:

8 (1) Decisions of any county board of equalization equalizing the
9 value of individual tracts, lots, or parcels of real property so that all
10 real property is assessed uniformly and proportionately;

11 (2) Decisions of any county board of equalization granting or
12 denying tax-exempt status for real or personal property or an exemption
13 from motor vehicle taxes and fees;

14 (3) Decisions of the Tax Commissioner determining the taxable
15 property of a railroad company, car company, public service entity, or
16 air carrier within the state;

17 (4) Decisions of the Tax Commissioner determining adjusted valuation
18 pursuant to section 79-1016;

19 (5) Decisions of any county board of equalization on the valuation
20 of personal property or any penalties imposed under sections 77-1233.04
21 and 77-1233.06;

22 (6) Decisions of any county board of equalization on claims that a
23 levy is or is not for an unlawful or unnecessary purpose or in excess of
24 the requirements of the county;

25 (7) Decisions of any county board of equalization granting or
26 rejecting an application for a homestead exemption;

27 (8) Decisions of the Department of Motor Vehicles determining the
28 taxable value of motor vehicles pursuant to section 60-3,188;

29 (9) Decisions of the Tax Commissioner made under section 77-1330;

30 (10) Any other decision of any county board of equalization;

31 (11) Any other decision of the Tax Commissioner regarding property

1 valuation, exemption, or taxation;

2 (12) Decisions of the Tax Commissioner pursuant to section 77-3520;

3 (13) Final decisions of a county board of equalization appealed by
4 the Tax Commissioner or Property Tax Administrator pursuant to section
5 77-701;

6 (14) Determinations of the Rent-Restricted Housing Projects
7 Valuation Committee regarding the capitalization rate to be used to value
8 rent-restricted housing projects pursuant to section 77-1333 or the
9 requirement under such section that an income-approach calculation be
10 used by county assessors to value rent-restricted housing projects;

11 (15) The requirement under section 77-1314 that the income approach,
12 including the use of a discounted cash-flow analysis, be used by county
13 assessors; ~~and~~

14 (16) Decisions of the Tax Commissioner pursuant to section 8 of this
15 act; and

16 (17) ~~(16)~~ Any other decision, determination, action, or order from
17 which an appeal to the commission is authorized.

18 The commission has the power and duty to hear and grant or deny
19 relief on petitions.

20 Sec. 21. Section 77-5022, Revised Statutes Cumulative Supplement,
21 2016, is amended to read:

22 77-5022 The commission shall annually equalize the assessed value ~~or~~
23 ~~special value~~ of all residential and commercial real property as
24 submitted by the county assessors on the abstracts of assessments and
25 equalize the values of real property that is valued by the state. The
26 commission shall have the power to recess from time to time until the
27 equalization process is complete. Meetings held pursuant to this section
28 may be held by means of videoconference or telephone conference.

29 Sec. 22. Section 77-5023, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 77-5023 (1) Pursuant to section 77-5022, the commission shall have

1 the power to increase or decrease the value of a class or subclass of
2 residential or commercial real property in any county or taxing authority
3 or of real property valued by the state so that all classes or subclasses
4 of real property in all counties fall within an acceptable range.

5 (2) An acceptable range is the percentage of variation from a
6 standard for valuation as measured by an established indicator of central
7 tendency of assessment. ~~The acceptable range~~ Acceptable ranges are: (a)
8 ~~For agricultural land and horticultural land as defined in section~~
9 ~~77-1359, sixty-nine to seventy-five percent of actual value;~~ (b) for
10 ~~lands receiving special valuation, sixty-nine to seventy-five percent of~~
11 ~~special valuation as defined in section 77-1343; and (c) for all~~
12 residential and commercial ~~other~~ real property, is ninety-two to one
13 hundred percent of actual value.

14 (3) Any increase or decrease shall cause the level of value
15 determined by the commission to be at the midpoint of the ~~applicable~~
16 acceptable range.

17 (4) Any decrease or increase to a subclass of property shall also
18 cause the level of value determined by the commission for the class from
19 which the subclass is drawn to be within the ~~applicable~~ acceptable range.

20 (5) Whether or not the level of value determined by the commission
21 falls within the ~~an~~ acceptable range or at the midpoint of the ~~an~~
22 acceptable range may be determined to a reasonable degree of certainty
23 relying upon generally accepted mass appraisal techniques.

24 Sec. 23. Section 79-1016, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 79-1016 (1) On or before August 25, the county assessor shall
27 certify to the Property Tax Administrator the total taxable value by
28 school district in the county for the current assessment year on forms
29 prescribed by the Tax Commissioner. The county assessor may amend the
30 filing for changes made to the taxable valuation of the school district
31 in the county if corrections or errors on the original certification are

1 discovered. Amendments shall be certified to the Property Tax
2 Administrator on or before September 30.

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

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

24 (a) For real property other than agricultural and horticultural
25 land, ninety-six percent of actual value;

26 (b) For agricultural land and horticultural land, the agricultural
27 use seventy-two percent of actual value as provided in the Agricultural
28 Valuation Fairness Act sections 77-1359 to 77-1363. For agricultural and
29 horticultural land that receives special valuation pursuant to section
30 77-1344, seventy-two percent of special valuation as defined in section
31 77-1343; and

1 (c) For personal property, the net book value as defined in section
2 77-120.

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

19 (5) On or before November 10, any local system or county official
20 may file with the Tax Commissioner a written request for a nonappealable
21 correction of the adjusted valuation due to clerical error as defined in
22 ~~section 77-128 or, for agricultural and horticultural land, assessed~~
23 ~~value changes by reason of land qualified or disqualified for special use~~
24 ~~valuation pursuant to sections 77-1343 to 77-1347.01.~~ On or before the
25 following January 1, the Tax Commissioner shall approve or deny the
26 request and, if approved, certify the corrected adjusted valuations
27 resulting from such action to the State Department of Education.

28 (6) On or before May 31 of the year following the certification of
29 adjusted valuation pursuant to subsection (2) of this section, any local
30 system or county official may file with the Tax Commissioner a written
31 request for a nonappealable correction of the adjusted valuation due to

1 changes to the tax list that change the assessed value of taxable
2 property. Upon the filing of the written request, the Tax Commissioner
3 shall require the county assessor to recertify the taxable valuation by
4 school district in the county on forms prescribed by the Tax
5 Commissioner. The recertified valuation shall be the valuation that was
6 certified on the tax list, pursuant to section 77-1613, increased or
7 decreased by changes to the tax list that change the assessed value of
8 taxable property in the school district in the county in the prior
9 assessment year. On or before the following July 31, the Tax Commissioner
10 shall approve or deny the request and, if approved, certify the corrected
11 adjusted valuations resulting from such action to the State Department of
12 Education.

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

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

28 Sec. 24. Section 79-1036, Revised Statutes Cumulative Supplement,
29 2016, is amended to read:

30 79-1036 (1) In making the apportionment under section 79-1035, the
31 Commissioner of Education shall distribute from the school fund for

1 school purposes to (a) for school fiscal years prior to school fiscal
2 year 2017-18, any and all learning communities and school districts which
3 are not members of a learning community, and (b) for school fiscal year
4 2017-18 and each school fiscal year thereafter, all school districts in
5 which there are situated school lands which have not been sold and
6 transferred by deed or saline lands owned by the state, which lands are
7 being used for a public purpose, an amount in lieu of tax money that
8 would be raised by school district levies if such lands were taxable, to
9 be ascertained in accordance with subsection (2) of this section, except
10 that:

11 (i) For Class I districts or portions thereof which are affiliated
12 and in which there are situated school or saline lands, 38.6207 percent
13 of the in lieu of land tax money calculated pursuant to subsection (2) of
14 this section, based on the affiliated school system tax levy computed
15 pursuant to section 79-1077, shall be distributed to the affiliated high
16 school district and the remainder shall be distributed to the Class I
17 district;

18 (ii) For Class I districts or portions thereof which are part of a
19 Class VI district which offers instruction in grades nine through twelve
20 and in which there are situated school or saline lands, 38.6207 percent
21 of the in lieu of land tax money calculated pursuant to subsection (2) of
22 this section, based on the Class VI school system levy computed pursuant
23 to section 79-1078, shall be distributed to the Class VI district and the
24 remainder shall be distributed to the Class I district;

25 (iii) For Class I districts or portions thereof which are part of a
26 Class VI district which offers instruction in grades seven through twelve
27 and in which there are situated school or saline lands, 55.1724 percent
28 of the in lieu of land tax money calculated pursuant to subsection (2) of
29 this section, based on the Class VI school system levy computed pursuant
30 to section 79-1078, shall be distributed to the Class VI district and the
31 remainder shall be distributed to the Class I district; and

1 (iv) For Class I districts or portions thereof which are part of a
2 Class VI district which offers instruction in grades six through twelve
3 and in which there are situated school or saline lands, 62.0690 percent
4 of the in lieu of land tax money calculated pursuant to subsection (2) of
5 this section, based on the Class VI school system levy computed pursuant
6 to section 79-1078, shall be distributed to the Class VI district and the
7 remainder shall be distributed to the Class I district.

8 (2) The county assessor shall certify to the Commissioner of
9 Education the tax levies of each school district and, for levies
10 certified prior to January 1, 2017, learning community in which school
11 land or saline land is located and the last appraised value of such
12 school land, which value shall be the same percentage of the appraised
13 value as the percentage of the assessed value is of agricultural use
14 ~~market~~ value in subsection (2) of section 77-201 for the purpose of
15 applying the applicable tax levies for each district and, for levies
16 certified prior to January 1, 2017, learning community in determining the
17 distribution to the districts of such amounts. The school board of any
18 school district and, for levies certified prior to January 1, 2017, the
19 learning community coordinating council of any learning community in
20 which there is located any leased or undeeded school land or saline land
21 subject to this section may appeal to the Board of Educational Lands and
22 Funds for a reappraisal of such school land if such school board or
23 learning community coordinating council deems the land not appraised in
24 proportion to the value of adjoining land of the same or similar value.
25 The Board of Educational Lands and Funds shall proceed to investigate the
26 facts involved in such appeal and, if the contention of the school board
27 or learning community coordinating council is correct, make the proper
28 reappraisal. The value calculation in this subsection shall be used by
29 the Commissioner of Education for making distributions in each school
30 fiscal year.

31 Sec. 25. This act becomes operative on January 1, 2019.

1 Sec. 26. Original sections 19-2428, 46-294.03, 77-103.01,
2 77-1507.01, 77-5023, and 79-1016, Reissue Revised Statutes of Nebraska,
3 and sections 76-710.04, 77-201, 77-1327, 77-1359, 77-1363, 77-1371,
4 77-1502, 77-4212, 77-5007, 77-5022, and 79-1036, Revised Statutes
5 Cumulative Supplement, 2016, are repealed.

6 Sec. 27. The following sections are outright repealed: Sections
7 77-1343, 77-1344, 77-1345, 77-1345.01, 77-1346, and 77-1347.01, Reissue
8 Revised Statutes of Nebraska, and section 77-1347, Revised Statutes
9 Cumulative Supplement, 2016.