

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 970

Introduced by Landis, 46

Read first time January 9, 2004

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-201, 77-1343, 77-1344, 77-1363, 77-5023, and 79-1016,
3 Reissue Revised Statutes of Nebraska; to change
4 provisions relating to valuation of agricultural land and
5 horticultural land; to harmonize provisions; and to
6 repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-201, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-201. (1) Except as provided in subsection (2) of this
4 section, all real property in this state, not expressly exempt
5 therefrom, shall be subject to taxation and shall be valued at its
6 actual value.

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

12 (3) Agricultural land and horticultural land actively
13 devoted to agricultural or horticultural purposes which has value
14 for purposes other than agricultural or horticultural uses and
15 which meets the qualifications for special valuation under section
16 77-1344 shall constitute a separate and distinct class of property
17 for purposes of property taxation, shall be subject to taxation,
18 and shall be valued for taxation at eighty percent of its special
19 value as defined in section 77-1343 and at eighty percent of its
20 recapture value as defined in such section when the land is
21 disqualified for special valuation under section 77-1347.

22 (4) Tangible personal property, not including motor
23 vehicles registered for operation on the highways of this state,
24 shall constitute a separate and distinct class of property for
25 purposes of property taxation, shall be subject to taxation, unless
26 expressly exempt from taxation, and shall be valued at its net book
27 value. Tangible personal property transferred as a gift or devise
28 or as part of a transaction which is not a purchase shall be

1 subject to taxation based upon the date the property was acquired
2 by the previous owner and at the previous owner's Nebraska adjusted
3 basis. Tangible personal property acquired as replacement property
4 for converted property shall be subject to taxation based upon the
5 date the converted property was acquired and at the Nebraska
6 adjusted basis of the converted property unless insurance proceeds
7 are payable by reason of the conversion. For purposes of this
8 subsection, (a) converted property means tangible personal property
9 which is compulsorily or involuntarily converted as a result of its
10 destruction in whole or in part, theft, seizure, requisition, or
11 condemnation, or the threat or imminence thereof, and no gain or
12 loss is recognized for federal or state income tax purposes by the
13 holder of the property as a result of the conversion and (b)
14 replacement property means tangible personal property acquired
15 within two years after the close of the calendar year in which
16 tangible personal property was converted and which is, except for
17 date of construction or manufacture, substantially the same as the
18 converted property.

19 Sec. 2. Section 77-1343, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-1343. The purpose of sections 77-1343 to 77-1348 is
22 to provide a special valuation for qualified agricultural or
23 horticultural land so that the current assessed valuation of the
24 land for property tax purposes is the value that the land would
25 have without regard to the value the land would have for other
26 purposes or uses. For purposes of sections 77-1343 to 77-1348:

27 (1) Agricultural or horticultural land means that land as
28 defined in section 77-1359;

1 (2) Agricultural or horticultural use means the use of
2 land as defined in section 77-1359, so that incidental use of the
3 land for nonagricultural or nonhorticultural purposes shall not
4 disqualify the land;

5 (3) Lessee means a person leasing agricultural or
6 horticultural land from a state or governmental subdivision which
7 is an owner that is subject to taxation under section 77-202.11;

8 (4) Owner means an owner of agricultural or horticultural
9 land who holds an estate in fee simple or for life, any one of
10 tenants in common or joint tenants who hold an estate in fee simple
11 or for life, or the purchaser of agricultural or horticultural land
12 under a contract for sale;

13 (5) Recapture valuation means ~~eighty percent~~ of the
14 actual value of the land pursuant to section 77-112;

15 (6) Special valuation means ~~eighty percent~~ of the value
16 that the land would have for agricultural or horticultural purposes
17 or uses without regard to the actual value the land would have for
18 other purposes or uses;

19 (7) Taxpayer means the owner or lessee that is
20 responsible for paying the property taxes levied on an item of real
21 property; and

22 (8) Zoned for agricultural or horticultural use means
23 designation of any land predominantly for agricultural or
24 horticultural use by any political subdivision pursuant to sections
25 19-924 to 19-933, Chapter 14, article 4, Chapter 15, article 9,
26 Chapter 16, article 9, Chapter 17, article 10, or Chapter 23,
27 article 1. The primary objective of the agricultural or
28 horticultural use zoning shall be to preserve and protect

1 agricultural activities and the potential for the agricultural,
2 horticultural, or open use of land. Uses to be allowed on such
3 lands include primarily agricultural-related or
4 horticultural-related uses, and nonagricultural or nonhorticultural
5 industrial, commercial, or residential uses allowed on such lands
6 shall be restricted so that they do not conflict with or detract
7 from this objective.

8 Sec. 3. Section 77-1344, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-1344. (1) Any land which has an actual value as
11 defined in section 77-112 reflecting purposes or uses other than
12 agricultural or horticultural use shall be assessed ~~at its special~~
13 ~~valuation and not at its recapture value as provided in subsection~~
14 (3) of section 77-201 if the land meets the qualifications of this
15 subsection and an application for such special valuation is made
16 and approved pursuant to section 77-1345. In order for the land to
17 qualify for special valuation all of the following criteria shall
18 be met: (a) The land is located outside the corporate boundaries
19 of any sanitary and improvement district, city, or village, (b) the
20 land is used for agricultural or horticultural purposes, and (c)
21 the land is zoned predominantly for agricultural or horticultural
22 use.

23 (2) The special valuation provisions may be applicable to
24 real property included within the corporate boundaries of a city or
25 village if the land is subject to a conservation or preservation
26 easement as provided in the Conservation and Preservation Easements
27 Act and the governing body of the city or village approves the
28 agreement creating the easement.

1 (3) The eligibility of land for the special valuation
2 provisions of this section shall be determined as of January 1, but
3 if land so qualified becomes disqualified prior to the levy date of
4 the same year, it shall be valued and carried on the tax roll at
5 its recapture value. If the land becomes disqualified after the
6 date of levy, its valuation for that year shall continue as
7 provided in this section.

8 (4) The special valuation and recapture valuation placed
9 on such land by the county assessor under this section shall be
10 subject to equalization by the agricultural and horticultural land
11 valuation board, the county board of equalization, and the Tax
12 Equalization and Review Commission.

13 Sec. 4. Section 77-1363, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 77-1363. Agricultural land and horticultural land shall
16 be divided into classes and subclasses of real property under
17 section 77-103.01, including, but not limited to, irrigated
18 cropland, dryland cropland, grassland, wasteland, nurseries,
19 feedlots, and orchards, so that the categories reflect uses
20 appropriate for the valuation of such land according to law.
21 Classes shall be inventoried by subclasses of real property based
22 on soil classification standards developed by the Natural Resources
23 Conservation Service of the United States Department of
24 Agriculture. Land enrolled in a federal or state program in which
25 payments are received for removing such land from agricultural or
26 horticultural production shall be classified according to its
27 taxable value as determined in subsection (2) or (3) of section
28 77-201. County assessors shall utilize and implement soil surveys

1 in the tax year after the soil survey maps become available.
2 County assessors shall utilize and implement soil classifications
3 as converted into land valuation groups provided by the Property
4 Tax Administrator. Nothing in this section shall be construed to
5 limit the classes and subclasses of real property that may be used
6 by county assessors or the Tax Equalization and Review Commission
7 to achieve more uniform and proportionate valuations.

8 Sec. 5. Section 77-5023, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-5023. (1) Pursuant to section 77-5022, the commission
11 shall have the power to increase or decrease the assessed value,
12 special value, or recapture value of a class or subclass of real
13 property of any county or tax district or real property valued by
14 the state so that all classes or subclasses of real property in all
15 counties fall within the acceptable range.

16 (2) Such increase or decrease shall be made by a
17 percentage and shall result in the established indicator of central
18 tendency of assessment for the class or subclass of real property
19 adjusted at (a) seventy-seven percent of actual value for
20 agricultural and horticultural land, (b) beginning January 1, 2001,
21 ninety-six percent of special or recapture value for agricultural
22 and horticultural land that receives special valuation pursuant to
23 section 77-1344, and (c) ninety-six percent of actual value for
24 nonagricultural and nonhorticultural real property. If such
25 increase or decrease is made to a subclass of real property, the
26 increase or decrease shall also cause the established indicator of
27 central tendency of assessment for the class from which the
28 subclass is drawn to fall within the acceptable range. This

1 subsection shall become operative for all actions filed with the
2 commission on or after April 7, 2000.

3 (3) For agricultural and horticultural land, the
4 acceptable range shall be from seventy-four percent to eighty
5 percent of actual value of agricultural and horticultural land;
6 ~~beginning January 1, 2001,~~ for agricultural and horticultural land
7 eligible for special valuation under section 77-1344, the
8 acceptable range shall be from ~~ninety-two~~ seventy-four percent to
9 ~~one hundred~~ eighty percent of the special valuation, and the
10 recapture valuation shall be between ~~ninety-two~~ seventy-four to ~~one~~
11 ~~hundred~~ eighty percent of the recapture value; and for
12 nonagricultural and nonhorticultural real property, the acceptable
13 range shall be from ninety-two percent to one hundred percent of
14 actual value of nonagricultural and nonhorticultural real property.

15 Sec. 6. Section 79-1016, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 79-1016. (1) On or before August 25, the county assessor
18 shall certify to the Property Tax Administrator the total taxable
19 value by school district in the county for the current assessment
20 year on forms prescribed by the Property Tax Administrator. On or
21 before October 10, the Property Tax Administrator shall compute and
22 certify to the State Department of Education the adjusted valuation
23 for the current assessment year for each class of property in each
24 school district and each local system. The adjusted valuation of
25 property for each school district and each local system, for
26 purposes of determining state aid pursuant to the Tax Equity and
27 Educational Opportunities Support Act, shall reflect as nearly as
28 possible state aid value as defined in subsection (2) of this

1 section. The Property Tax Administrator shall also notify each
2 school district and each local system of its adjusted valuation for
3 the current assessment year by class of property on or before
4 October 10. Establishment of the adjusted valuation shall be based
5 on the determination of the level of value for each school district
6 from an analysis of the comprehensive assessment ratio study or
7 other studies developed by the Property Tax Administrator, in
8 compliance with professionally accepted mass appraisal techniques,
9 as required by section 77-1327. The Property Tax Administrator
10 shall adopt and promulgate rules and regulations setting forth
11 standards for the determination of level of value for school aid
12 purposes.

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

14 (a) For real property other than agricultural and
15 horticultural land, one hundred percent of market value;

16 (b) For agricultural and horticultural land, eighty
17 percent of market value as provided in sections 77-1359 to 77-1363.
18 For agricultural and horticultural land that receives special
19 valuation pursuant to section 77-1344, ~~one hundred~~ eighty percent
20 of special valuation as defined in section 77-1343; and

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

23 (3) On or before November 10, any local system may file
24 with the Property Tax Administrator written objections to the
25 adjusted valuations prepared by the Property Tax Administrator,
26 stating the reasons why such adjusted valuations are not the
27 valuations required by subsection (2) of this section. The
28 Property Tax Administrator shall fix a time for a hearing. Either

1 party shall be permitted to introduce any evidence in reference
2 thereto. On or before January 1, the Property Tax Administrator
3 shall enter an order modifying or declining to modify, in whole or
4 in part, the adjusted valuations and shall certify the order to the
5 State Department of Education. Modification by the Property Tax
6 Administrator shall be based upon the evidence introduced at
7 hearing and shall not be limited to the modification requested in
8 the written objections or at hearing. The final determination of
9 the Property Tax Administrator may be appealed to the Tax
10 Equalization and Review Commission in accordance with the Tax
11 Equalization and Review Commission Act.

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

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

27 (6) A school district whose state aid is to be calculated
28 pursuant to subsection (4) of this section and whose state aid

1 payment is postponed as a result of failure to calculate state aid
2 pursuant to such subsection may apply to the state board for
3 lump-sum payment of such postponed state aid. Such application may
4 be for any amount up to one hundred percent of the postponed state
5 aid. The state board may grant the entire amount applied for or
6 any portion of such amount. The state board shall notify the
7 Director of Administrative Services of the amount of funds to be
8 paid in a lump sum and the reduced amount of the monthly payments.
9 The Director of Administrative Services shall, at the time of the
10 next state aid payment made pursuant to section 79-1022, draw a
11 warrant for the lump-sum amount from appropriated funds and forward
12 such warrant to the district.

13 Sec. 7. Original sections 77-201, 77-1343, 77-1344,
14 77-1363, 77-5023, and 79-1016, Reissue Revised Statutes of
15 Nebraska, are repealed.