

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION

LEGISLATIVE BILL 15

Introduced by Landis, 46

Read first time January 6, 2005

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 60-3005, 60-3006, 77-1345.01, 77-1510, 77-4105, 77-5018,  
3 77-5019, 77-5026, and 77-5028, Reissue Revised Statutes  
4 of Nebraska, and sections 77-202.04, 77-1514, 77-5004,  
5 77-5005, 77-5007, and 77-5016, Revised Statutes  
6 Supplement, 2004; to change appeal procedures; to change  
7 deadlines as prescribed; to change and eliminate  
8 provisions relating to the Tax Equalization and Review  
9 Commission; to harmonize provisions; to repeal the  
10 original sections; to outright repeal section 77-5032,  
11 Reissue Revised Statutes of Nebraska; and to declare an  
12 emergency.

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

1           Section 1. Section 60-3005, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           60-3005. (1) The Department of Motor Vehicles shall (a)  
4 determine the value when new of passenger cars, trucks, utility  
5 vehicles, and vans, weighing up to and including seven tons, and  
6 (b) certify such determination to the county treasurer or  
7 designated county official pursuant to section 23-186 of each  
8 county by November 15 of the prior year. The department shall make  
9 a determination for such makes and models of motor vehicles already  
10 manufactured or being manufactured and shall, as new makes and  
11 models of motor vehicles become available to Nebraska residents,  
12 continue to make such determinations. The value when new is the  
13 manufacturer's suggested retail price for a new motor vehicle of  
14 that year using the manufacturer's body type and model with  
15 standard equipment and not including transportation or delivery  
16 cost.

17           (2) Any person or taxing official may, within ten days  
18 after a determination has been certified by the department, file  
19 objections in writing with the department stating why the  
20 determination is incorrect.

21           (3) Any affected person may file an objection to the  
22 determination of the department not more than fifteen days before  
23 and not later than thirty days after the registration date. The  
24 objection must be filed in writing with the department and state  
25 why the determination is incorrect.

26           (4) Upon the filing of objections the department shall  
27 fix a time for a hearing. Any party may introduce evidence in  
28 reference to the objections, and the department shall act upon the

1 objections and make ~~an~~ a written order, mailed to the objector  
2 within seven days after the order. The final ~~determination~~  
3 decision by the department may be appealed. The appeal shall be to  
4 the Tax Equalization and Review Commission in accordance with the  
5 Tax Equalization and Review Commission Act within thirty days after  
6 the written order. In an appeal, the department's determination of  
7 the manufacturer's suggested retail price shall be presumed to be  
8 correct and the party challenging the determination shall bear the  
9 burden of proving it incorrect.

10 (5) The rules, regulations, and orders of the Property  
11 Tax Administrator under this section shall remain in effect unless  
12 changed or eliminated by the Department of Motor Vehicles.

13 Sec. 2. Section 60-3006, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 60-3006. (1) A veteran of the United States Armed Forces  
16 who qualifies for an exemption from the motor vehicle tax under  
17 subdivision (2) of section 60-3002 shall apply for the exemption to  
18 the county treasurer or designated county official pursuant to  
19 section 23-186 not more than fifteen days before and not later than  
20 thirty days after the registration date for the motor vehicle. A  
21 renewal application shall be made annually not sooner than the  
22 first day of the last month of the registration period or later  
23 than the last day of the registration period. The county treasurer  
24 or designated county official shall approve or deny the application  
25 and notify the applicant of his or her decision within twenty days  
26 after the filing of the application. An applicant may appeal the  
27 denial of an application to the county board of equalization within  
28 twenty days after the date the notice was mailed.

1           (2) An organization which qualifies for an exemption from  
2 the motor vehicle tax under subdivision (6) of section 60-3002  
3 shall apply for the exemption to the county treasurer or designated  
4 county official not more than fifteen days before and not later  
5 than thirty days after the registration date for the motor vehicle.  
6 For a newly acquired motor vehicle, an application for exemption  
7 must be made within thirty days after the purchase date. A renewal  
8 application shall be made annually not sooner than the first day of  
9 the last month of the registration period or later than the last  
10 day of the registration period. The county treasurer or designated  
11 county official shall examine the application and recommend either  
12 exempt or nonexempt status to the county board of equalization  
13 within twenty days after receipt of the application. The county  
14 board of equalization, after a hearing on ten days' notice to the  
15 applicant and after considering the recommendation of the county  
16 treasurer or designated county official and any other information  
17 it may obtain, shall approve or deny the exemption on the basis of  
18 law and of rules and regulations adopted and promulgated by the  
19 Property Tax Administrator. The county board of equalization shall  
20 ~~certify its~~ mail or deliver its final decision to the applicant and  
21 the county treasurer or designated county official within ten days  
22 after the hearing. The decision of the county board of  
23 equalization may be appealed to the Tax Equalization and Review  
24 Commission in accordance with the Tax Equalization and Review  
25 Commission Act within thirty days after the final decision.

26           Sec. 3. Section 77-202.04, Revised Statutes Supplement,  
27 2004, is amended to read:

28           77-202.04.     (1) Notice of a county board of

1 equalization's decision granting or denying an application for  
2 exemption from taxation for real or tangible personal property  
3 shall be mailed or delivered to the applicant and the county  
4 assessor by the county clerk within seven days after the date of  
5 the board's decision. Persons, corporations, or organizations may  
6 appeal denial of an application for exemption by a county board of  
7 equalization. Only the county assessor may appeal the grant of such  
8 an exemption by a county board of equalization. Appeals pursuant to  
9 this section shall be made to the Tax Equalization and Review  
10 Commission in accordance with section 77-5013 within thirty days  
11 after the decision of the county board of equalization. The  
12 Property Tax Administrator may in his or her discretion intervene  
13 in any such appeal pursuant to this section.

14 (2) Any person may petition the Tax Equalization and  
15 Review Commission in accordance with section 77-5013, on or before  
16 December 31 of each year, to determine the taxable status of real  
17 property for that year if a failure to give notice as prescribed by  
18 this section prevented timely filing of a protest or appeal  
19 provided for in this section.

20 Sec. 4. Section 77-1345.01, Reissue Revised Statutes of  
21 Nebraska, is amended to read:

22 77-1345.01. (1) On or before July 15 in the year of  
23 application, the county assessor shall approve or deny the  
24 application for special valuation filed pursuant to section  
25 77-1345. On or before July 22, the county assessor shall send  
26 notification of his or her action to the applicant by regular mail  
27 to the address on the application. If the application is approved,  
28 the county assessor shall value the land as provided in section

1 77-1344.

2 (2) If the application is denied, the applicant may  
3 protest the denial to the county board of equalization on or before  
4 August 15. The protest shall be in writing and filed with the  
5 county clerk. The county board of equalization shall decide the  
6 protest on or before September 15. The county clerk shall mail  
7 notice of the board's decision to the applicant within seven days  
8 after the date of the decision. If the protest is denied, the  
9 notice shall state the reason for denial.

10 (3) The decision of the county board of equalization may  
11 be appealed to the Tax Equalization and Review Commission in  
12 accordance with section 77-5013 within thirty days after the date  
13 of the decision.

14 (4) If the county board of equalization takes action  
15 pursuant to section 77-1504 or 77-1507 and the taxpayer filed an  
16 application for special valuation pursuant to subsection (3) of  
17 section 77-1345, the county assessor shall approve or deny the  
18 application within fifteen days after the filing of the application  
19 and issue notice of the approval or denial as prescribed in  
20 subsection (1) of this section. If the application is denied, the  
21 applicant may protest the denial to the county board of  
22 equalization within thirty days after the mailing of the notice of  
23 the action of the county assessor. The protest shall be in writing  
24 and filed with the county clerk. The county board of equalization  
25 shall decide the protest within thirty days after the filing of the  
26 protest by the applicant. The applicant may appeal the decision of  
27 the county board of equalization to the Tax Equalization and Review  
28 Commission in accordance with section 77-5013 within thirty days

1 after the date of the decision.

2           (5) Any person may petition the Tax Equalization and  
3 Review Commission in accordance with section 77-5013, on or before  
4 December 31 of each year, to determine whether the land will  
5 receive special valuation for that year if a failure to give notice  
6 as prescribed by this section prevented timely filing of a protest  
7 or appeal provided for in this section.

8           Sec. 5. Section 77-1510, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           77-1510. Any action of the county board of equalization  
11 pursuant to section 77-1502 may be appealed to the Tax Equalization  
12 and Review Commission in accordance with section 77-5013 on or  
13 before August 24. Any person may petition the Tax Equalization and  
14 Review Commission in accordance with section 77-5013, on or before  
15 December 31 of each year, to determine the actual value, special  
16 value, or recapture value of real property for that year if a  
17 failure to give notice prevented timely filing of a protest or  
18 appeal provided for in this section.

19           Sec. 6. Section 77-1514, Revised Statutes Supplement,  
20 2004, is amended to read:

21           77-1514. The county assessor shall prepare abstracts of  
22 the property assessment rolls of locally assessed property of his  
23 or her county on forms prescribed and furnished by the Property Tax  
24 Administrator. The county assessor shall file the real property  
25 abstract with the Property Tax Administrator on or before March 19  
26 and the personal property abstract on or before June 15. The  
27 abstracts shall show the taxable value of real or personal property  
28 in the county as determined by the county assessor and any other

1 information as required by the Property Tax Administrator. The  
2 Property Tax Administrator, upon written request from the county  
3 assessor, may for good cause shown extend the final filing due date  
4 for the real property abstract and the statutory deadlines provided  
5 in sections 77-1381, 77-1381.01, 77-1384, and 77-5027. The  
6 Property Tax Administrator may extend the statutory deadline in  
7 section 77-5028 for a county if the deadline is extended for that  
8 county. ~~7 and 77-5028.~~

9           Sec. 7. Section 77-4105, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           77-4105. (1) A taxpayer who has signed an agreement  
12 under section 77-4104 may elect to determine taxable income for  
13 purposes of the Nebraska income tax using the sales factor only.  
14 The election may be made for the year during which the application  
15 was filed and for each year thereafter through the eighth year  
16 after the end of the entitlement period. The election shall be  
17 made for the year of the election by computing taxable income using  
18 the sales factor only on the tax return.

19           (2) A taxpayer who has signed an agreement under section  
20 77-4104 shall receive the incentive provided in this subsection if  
21 the agreement contains one or more projects which together will  
22 result in the investment in qualified property of at least ten  
23 million dollars and the hiring of at least one hundred new  
24 employees. Such ten-million-dollar investment and hiring of at  
25 least one hundred new employees shall be considered a required  
26 level of investment and employment for this subsection and for the  
27 recapture of personal property tax only.

28           The following property used in connection with such

1 project or projects and acquired by the taxpayer, whether by lease  
2 or purchase, after the date the application was filed shall  
3 constitute separate classes of personal property:

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

8 (b) Mainframe business computers used for business  
9 information processing which require environmental controls of  
10 temperature and power and which are capable of simultaneously  
11 supporting more than one transaction and more than one user plus  
12 peripheral components which require environmental controls of  
13 temperature and power connected to such computers. Computer  
14 peripheral components shall be limited to additional memory units,  
15 tape drives, disk drives, power supplies, cooling units, and  
16 communication controllers; and

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

22 Such property shall be eligible for exemption from the  
23 tax on personal property from the first January 1 following the  
24 date of acquisition for property in subdivision (2)(a) of this  
25 section, or from the first January 1 following the end of the year  
26 during which the required levels were exceeded for property in  
27 subdivisions (2)(b) and (2)(c) of this section, through the  
28 sixteenth December 31 after the filing of the application. In

1 order to receive the property tax exemptions allowed by  
2 subdivisions (2)(a), (2)(b), and (2)(c) of this section, the  
3 taxpayer shall annually file a claim for exemption with the  
4 Property Tax Administrator on or before May 1. The form and  
5 supporting schedules shall be prescribed by the Property Tax  
6 Administrator and shall list all property for which exemption is  
7 being sought under this section. A separate claim for exemption  
8 must be filed for each project and each county in which property is  
9 claimed to be exempt. A copy of this form must also be filed with  
10 the county assessor in each county in which the applicant is  
11 requesting exemption. The Property Tax Administrator shall  
12 determine the eligibility of each item listed for exemption and, on  
13 or before August 10, certify such to the taxpayer and to the  
14 affected county assessor. Notwithstanding any other provision of  
15 law, the Property Tax Administrator shall be allowed access to the  
16 applications and such other records of the Department of Revenue as  
17 necessary in order to determine the eligibility for exemption. If  
18 a claim for exemption is denied, the claimant may, on or before  
19 September 9, appeal the decision of the Property Tax Administrator  
20 to the Tax Equalization and Review Commission in accordance with  
21 the Tax Equalization and Review Commission Act.

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

25 (a) A refund of all sales and use taxes paid under the  
26 Nebraska Revenue Act of 1967, the Local Option Revenue Act, and  
27 sections 13-319, 13-324, and 13-2813 from the date of the  
28 application through the meeting of the required levels of

1 employment and investment for all purchases, including rentals, of:

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

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

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

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

15 (b) A refund of the sales and use taxes paid under the  
16 Nebraska Revenue Act of 1967, the Local Option Revenue Act, and  
17 sections 13-319, 13-324, and 13-2813 on the types of purchases,  
18 including rentals, listed in subdivision (a) of this subsection for  
19 such taxes paid during each year of the entitlement period in which  
20 the taxpayer is at or above the required levels of employment and  
21 investment.

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

26 (a) A credit equal to five percent of the amount by which  
27 the total compensation paid during the year to employees who are  
28 either Nebraska employees or base-year employees while employed at

1 the project exceeds the average compensation paid at the project  
2 multiplied by the number of equivalent base-year employees.

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

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

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

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

18 Sec. 8. Section 77-5004, Revised Statutes Supplement,  
19 2004, is amended to read:

20 77-5004. (1) Each commissioner shall be a qualified  
21 voter and resident of the state and, for each commissioner  
22 representing a congressional district, a domiciliary of the  
23 district he or she represents.

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

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

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

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

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

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

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

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

27           (4) Prior to January 1, 2002, the chairperson, and on and  
28 after January 1, 2002, at least two commissioners, shall have been

1 engaged in the practice of law in the State of Nebraska for at  
2 least five years, which may include prior service as a judge, and  
3 shall be currently admitted to practice before the Nebraska Supreme  
4 Court.

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

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

16 (i) Sponsored by a recognized assessment or appraisal  
17 organization, in each of these areas: Utility and railroad  
18 appraisal; appraisal of complex industrial properties; appraisal of  
19 other hard to assess properties; and mass appraisal, residential or  
20 agricultural appraisal, or assessment administration; or

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

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

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

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

8           (9) Each commissioner who is domiciled more than one  
9 hundred miles from the principal office of the commission shall be  
10 allowed, as compensable time, the necessary time to make one round  
11 trip between his or her domicile and the principal office of the  
12 commission once every other week. Costs of travel to and from a  
13 domicile are not reimbursable.

14           Sec. 9. Section 77-5005, Revised Statutes Supplement,  
15 2004, is amended to read:

16           77-5005. (1) Within ten days after appointment, the  
17 commissioners shall meet at their office in Lincoln, Nebraska, and  
18 enter upon the duties of their office.

19           (2) A majority of the commission or, in cases when a  
20 panel of three commissioners hears a case, a majority of the panel  
21 shall at all times constitute a quorum to transact business, and  
22 one vacancy shall not impair the right of the remaining  
23 commissioners to exercise all the powers of the commission.

24           (3) Any investigation, inquiry, or hearing held or  
25 undertaken by the commission may be held or undertaken by or before  
26 a panel of three commissioners. ~~with the approval of the~~  
27 ~~commission.~~

28           (4) ~~The commission shall issue its final decision,~~

1 accompanied by findings of fact and conclusions of law, in writing  
2 or on the record.

3 ~~(5)~~ All investigations, inquiries, hearings, and  
4 decisions of a panel of commissioners and every order made by a  
5 panel of commissioners shall be deemed to be the order of the  
6 commission. The full commission may grant a rehearing and  
7 determine de novo any decisions of or orders made by a panel of  
8 commissioners. The thirty-day filing period for appeals under  
9 subsection (2) of section 77-5019 shall be tolled while a motion  
10 for rehearing is pending.

11 ~~(6)~~ (5) All hearings or proceedings of the commission  
12 shall be open to the public.

13 ~~(7)~~ (6) The Open Meetings Act applies only to hearings or  
14 proceedings of the commission held pursuant to the rulemaking  
15 authority of the commission.

16 Sec. 10. Section 77-5007, Revised Statutes Supplement,  
17 2004, is amended to read:

18 77-5007. The commission has the power and duty to hear  
19 and determine appeals of:

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

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

27 (3) Decisions of the Property Tax Administrator  
28 determining the taxable property of a railroad company, car

1 company, public service entity, or air carrier within the state;

2 (4) Decisions of the Property Tax Administrator  
3 determining adjusted valuation pursuant to section 79-1016;

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

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

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

12 (8) Decisions of the Department of Motor Vehicles  
13 determining the taxable value of motor vehicles pursuant to section  
14 60-3005;

15 (9) Decisions of the Property Tax Administrator made  
16 under section 77-1330;

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

19 (11) Any other decision of the Property Tax  
20 Administrator;

21 (12) Decisions of the Tax Commissioner pursuant to  
22 section 77-3520; and

23 (13) Any other decision, determination, action, or order  
24 from which an appeal to the commission is authorized.

25 The commission has the power and duty to hear and grant  
26 relief on petitions brought pursuant to section 77-1345.01 or  
27 77-1380 and any other petition the commission is authorized to  
28 hear.

1           Sec. 11. Section 77-5016, Revised Statutes Supplement,  
2 2004, is amended to read:

3           77-5016. Any hearing or proceeding of the commission  
4 shall be conducted as an informal hearing unless a formal hearing  
5 is granted as determined by the commission according to its rules  
6 and regulations. In any hearing or proceeding heard by the  
7 commission or a panel of commissioners:

8           (1) The commission may admit and give probative effect to  
9 evidence which possesses probative value commonly accepted by  
10 reasonably prudent persons in the conduct of their affairs. ~~It~~  
11 ~~shall give effect to the privilege rules of evidence in sections~~  
12 ~~27-501 to 27-513. It may exclude incompetent, irrelevant,~~  
13 ~~immaterial, and unduly repetitious evidence excluding incompetent,~~  
14 irrelevant, immaterial, and unduly repetitious evidence and shall  
15 give effect to the privilege rules of evidence in sections 27-501  
16 to 27-513 but shall not otherwise be bound by the usual common law  
17 or statutory rules of evidence except during a formal hearing. Any  
18 party to an appeal filed under section 77-5007 may request a formal  
19 hearing by delivering a written request to the commission not more  
20 than thirty days after the appeal is filed. The request shall  
21 include the requesting party's agreement to be liable for the  
22 payment of costs incurred and upon any appeal or review, including  
23 the cost of court reporting services which the requesting party  
24 shall procure for the hearing. The commission shall be bound by  
25 the rules of evidence applicable in district court in any formal  
26 hearing held by the commission. All costs of a formal hearing  
27 shall be paid by the party or parties against whom a final decision  
28 is rendered;

1           (2) The commission may administer oaths, issue subpoenas,  
2 and compel the attendance of witnesses and the production of any  
3 papers, books, accounts, documents, statistical analysis, and  
4 testimony. The commission may adopt and promulgate necessary rules  
5 for discovery which are consistent with the rules adopted by the  
6 Supreme Court pursuant to section 25-1273.01;

7           (3) The commission may consider and utilize the  
8 provisions of the Constitution of the United States, the  
9 Constitution of Nebraska, the laws of the United States, the laws  
10 of Nebraska, the Code of Federal Regulations, the Nebraska  
11 Administrative Code, any decision of the several courts of the  
12 United States or the State of Nebraska, and the legislative history  
13 of any law, rule, or regulation, without making the document a part  
14 of the record. The commission may without inclusion in the record  
15 consider and utilize published treatises, periodicals, and  
16 reference works pertaining to the valuation or assessment of real  
17 or personal property or the meaning of words and phrases if the  
18 document is identified in the commission's rules and regulations.  
19 All other evidence, including records and documents in the  
20 possession of the commission of which it desires to avail itself,  
21 shall be offered and made a part of the record in the case. No  
22 other factual information or evidence other than that set forth in  
23 this section shall be considered in the determination of the case.  
24 Documentary evidence may be received in the form of copies or  
25 excerpts or by incorporation by reference;

26           (4) Every party shall have the right of cross-examination  
27 of witnesses who testify and shall have the right to submit  
28 rebuttal evidence;

1           (5) The commission may take notice of judicially  
2 cognizable facts and in addition may take notice of general,  
3 technical, or scientific facts within its specialized knowledge or  
4 statistical information regarding general levels of assessment  
5 within a county or a class or subclass of real property within a  
6 county and measures of central tendency within such county or  
7 classes or subclasses within such county which have been made known  
8 to the commission. Parties shall be notified either before or  
9 during the hearing or by reference in preliminary reports or  
10 otherwise of the material so noticed. They shall be afforded an  
11 opportunity to contest the facts so noticed. The commission may  
12 utilize its experience, technical competence, and specialized  
13 knowledge in the evaluation of the evidence presented to it;

14           (6) Any person testifying under oath at a hearing who  
15 knowingly and intentionally makes a false statement to the  
16 commission or its designee is guilty of perjury. For the purpose  
17 of this section, perjury is a Class I misdemeanor;

18           (7) The commission shall hear appeals and cross appeals  
19 as in equity and without a jury and determine de novo all questions  
20 raised in the proceedings upon which the order, decision,  
21 determination, or action appealed from is based;

22           (8) In all appeals, excepting those arising under section  
23 77-1606, if the appellant presents no evidence to show that the  
24 order, decision, determination, or action appealed from is  
25 incorrect, the commission shall deny the appeal. If the appellant  
26 presents any evidence to show that the order, decision,  
27 determination, or action appealed from is incorrect, such order,  
28 decision, determination, or action shall be affirmed unless

1 evidence is adduced establishing that the order, decision,  
2 determination, or action was unreasonable or arbitrary;

3 (9) Any decision rendered by the commission shall be  
4 certified to the parties and, if applicable, to the county  
5 treasurer and the official charged with the duty of preparing the  
6 tax list. When such decision becomes final, the officials shall  
7 correct their records accordingly;

8 (10) If the appeal concerns a decision by the county  
9 board of equalization that property is, in whole or in part, exempt  
10 from taxation, the decision to be rendered by the commission shall  
11 only determine the exemption status of the property. The decision  
12 shall not determine the taxable value of the property unless  
13 stipulated by the parties according to subsection (2) of section  
14 77-5017;

15 (11) If the appeal concerns a decision by the county  
16 board of equalization that property owned by the state or a  
17 political subdivision is or is not exempt and there has been no  
18 final determination of the value of the property, the decision to  
19 be rendered by the commission shall only determine the exemption  
20 status of the property. The decision shall not determine the  
21 taxable value of the property unless stipulated by the parties  
22 according to subsection (2) of section 77-5017;

23 (12) The costs of any appeal, including the costs of  
24 witnesses, may be taxed by the commission as it deems just, except  
25 costs payable by the appellant pursuant to section 77-1510.01,  
26 unless the appellant is the county assessor or county clerk in  
27 which case the costs shall be paid by the county; and

28 (13) The commission shall deny relief to the appellant or

1 petitioner in any hearing or proceeding unless a majority of the  
2 commissioners present determine that the relief should be granted.

3 Sec. 12. Section 77-5018, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5 77-5018. (1) The commission may issue decisions and  
6 orders which are supported by the evidence and appropriate for  
7 resolving the matters in dispute. Every final decision and order  
8 adverse to a party to the proceeding, rendered by the commission in  
9 a case appealed to the commission, shall be in writing or stated in  
10 the record and shall be accompanied by findings of fact and  
11 conclusions of law. The findings of fact shall consist of a  
12 concise statement of the conclusions upon each contested issue of  
13 fact. Parties to the proceeding shall be notified of the decision  
14 and order in person or by mail. A copy of the decision and order  
15 shall be delivered or mailed upon request to each party or his or  
16 her attorney of record. Any decision rendered by the commission  
17 shall be certified to the county treasurer and to the officer  
18 charged with the duty of preparing the tax list, and if and when  
19 such decision becomes final, such officers shall correct their  
20 records accordingly.

21 (2) The commission may, on its own motion, modify or  
22 change its findings or orders, at any time before an appeal and  
23 within ten days after the date of such findings or orders, for the  
24 purpose of correcting any ambiguity, clerical error, or patent or  
25 obvious error. The time for appeal shall not be lengthened because  
26 of the correction unless the correction substantially changes the  
27 findings or order.

28 Sec. 13. Section 77-5019, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2           77-5019. (1) Any party aggrieved by a final decision in  
3 a case appealed to the commission and any ~~county or other political~~  
4 ~~subdivision aggrieved by an order of the commission issued pursuant~~  
5 ~~to section 77-1504.01 or 77-5028~~ party aggrieved by a final  
6 decision of the commission on a petition shall be entitled to  
7 judicial review in the Court of Appeals. Upon request of the  
8 county, the Attorney General may appear and represent the county or  
9 political subdivision in cases in which the commission is not a  
10 party. Nothing in this section shall be deemed to prevent resort  
11 to other means of review, redress, or relief provided by law.

12           (2) (a) Proceedings for review shall be instituted by  
13 filing a petition and the appropriate docket fees in the Court of  
14 Appeals and ~~delivery of a copy of the petition to the commission~~  
15 within thirty days after the date on which a final appealable order  
16 is entered by the commission. All parties of record shall be made  
17 parties to the proceedings for review. The commission shall only  
18 be made a party of record if the action complained of is an order  
19 issued by the commission pursuant to section 77-202.04, 77-1345.01,  
20 77-1380, 77-1504.01, 77-1510, 77-5020, or 77-5023. Summons shall  
21 be served on all parties within thirty days after the filing of the  
22 petition in the manner provided for service of a summons in section  
23 25-510.02. ~~If the commission is not a party of record, the~~  
24 ~~petitioner shall serve a copy of the petition and a request for~~  
25 ~~preparation of the official record upon the commission within~~  
26 ~~thirty days after the filing of the petition.~~ The court, in its  
27 discretion, may permit other interested persons to intervene. No  
28 bond or undertaking is required for an appeal to the Court of

1 Appeals.

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

11 (3) The filing of the petition or the service of summons  
12 upon the commission shall not stay enforcement of a decision. The  
13 commission may order a stay. The court may order a stay after  
14 notice of the application for the stay to the commission and to all  
15 parties of record. ~~If the commission has found that its action on~~  
16 ~~an application for stay or other temporary remedies is justified to~~  
17 ~~protect against a substantial threat to the public health, safety,~~  
18 ~~or welfare, the court may not grant relief unless the court finds~~  
19 ~~that: (a) The applicant is likely to prevail when the court~~  
20 ~~finally disposes of the matter; (b) without relief, the applicant~~  
21 ~~will suffer irreparable injuries; (c) the grant of relief to the~~  
22 ~~applicant will not substantially harm other parties to the~~  
23 ~~proceedings; and (d) the threat to the public health, safety, or~~  
24 ~~welfare relied on by the commission is not sufficiently serious to~~  
25 ~~justify the commission's action in the circumstances.~~ The court  
26 may require the party requesting the stay to give bond in such  
27 amount and conditioned as the court directs.

28 (4) ~~Within thirty days after service of the petition or~~

1 within such further time as the court for good cause shown allows,  
2 the commission shall prepare and transmit to the court a certified  
3 copy of the official record of the proceedings had before the  
4 ~~commission.~~ The official record Upon receipt of a petition the  
5 date for submission of the official record shall be determined by  
6 the court. The commission shall prepare a certified copy of the  
7 official record of the proceedings had before the commission in the  
8 case. The official record, unless limited by the written request  
9 of the petitioner, shall include: (a) Notice of all proceedings;  
10 (b) any pleadings, motions, requests, preliminary or intermediate  
11 rulings and orders, and similar correspondence to or from the  
12 commission pertaining to the case; (c) the transcribed record of  
13 the hearing before the commission, including all exhibits and  
14 evidence introduced during the hearing, a statement of matters  
15 officially noticed by the commission during the proceeding, and all  
16 proffers of proof and objections and rulings thereon; and (d) the  
17 final order appealed from. The commission shall charge the  
18 petitioner with the reasonable direct cost or require the  
19 petitioner to pay the cost for preparing the official record for  
20 transmittal to the court in all cases except when the petitioner is  
21 not required to pay a filing fee. ~~The commission may require~~  
22 ~~payment or bond prior to the transmittal of the record.~~ If payment  
23 is required, payment of the cost, as estimated by the commission,  
24 for preparation of the official record shall be paid to the  
25 commission prior to preparation of the official record and the  
26 commission shall not transmit the official record to the court  
27 until payment of the actual costs of its preparation is received.

28 (5) The review shall be conducted by the court for error

1 on the record of the commission. If the court determines that the  
2 interest of justice would be served by the resolution of any other  
3 issue not raised before the commission, the court may remand the  
4 case to the commission for further proceedings. The court may  
5 affirm, reverse, or modify the decision of the commission or remand  
6 the case for further proceedings.

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

9 Sec. 14. Section 77-5026, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 77-5026. Pursuant to section 77-5023, if the commission  
12 finds that the level of assessment of a class or subclass of real  
13 property fails to satisfy the requirements of section 77-5023, the  
14 commission shall issue a notice to the counties which it deems  
15 either undervalued or overvalued and shall set a date for hearing  
16 at least five days following the mailing of the notice unless  
17 notice is waived. The notice unless waived shall be mailed to the  
18 county clerk, county assessor, and chairperson of the county board.  
19 At the hearing the legal representatives of the county may appear  
20 and show cause why the value of a class or subclass of real  
21 property of the county should not be adjusted. A legal  
22 representative of the county may waive notice of the hearing or  
23 consent to entry of an order adjusting the value of a class or  
24 subclass of real property without further notice. At the hearing,  
25 the commission may receive testimony from any interested person.

26 Sec. 15. Section 77-5028, Reissue Revised Statutes of  
27 Nebraska, is amended to read:

28 77-5028. After a hearing conducted pursuant to section

1 77-5024 or 77-5026, the commission shall enter its order based on  
2 information presented to it at the hearing. The order of the  
3 commission shall be sent by certified mail to the county assessor  
4 and by regular mail to the county clerk and chairperson of the  
5 county board on or before May 15 of each year or the date  
6 determined by the Property Tax Administrator if an extension is  
7 ordered pursuant to section 77-1514, unless the offices of the  
8 commission are closed, then the order of the commission shall be  
9 sent by the end of the next day the commission's offices are open.  
10 The order shall specify the percentage increase or decrease and the  
11 class or subclass of real property affected or the corrections or  
12 adjustments to be made to the class or subclass of real property  
13 affected. The specified changes shall be made by the county  
14 assessor to each item of real property in the county so affected.

15 Sec. 16. Original sections 60-3005, 60-3006, 77-1345.01,  
16 77-1510, 77-4105, 77-5018, 77-5019, 77-5026, and 77-5028, Reissue  
17 Revised Statutes of Nebraska, and sections 77-202.04, 77-1514,  
18 77-5004, 77-5005, 77-5007, and 77-5016, Revised Statutes  
19 Supplement, 2004, are repealed.

20 Sec. 17. The following section is outright repealed:  
21 Section 77-5032, Reissue Revised Statutes of Nebraska.

22 Sec. 18. Since an emergency exists, this act takes  
23 effect when passed and approved according to law.