

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 439**

Introduced by Heidemann, 1; Wallman, 30.

Read first time January 14, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections 77-201  
2 and 77-5023, Reissue Revised Statutes of Nebraska, and  
3 section 79-1016, Revised Statutes Cumulative Supplement,  
4 2010; to change valuation of agricultural land and  
5 horticultural land; to harmonize school aid provisions;  
6 to provide an operative date; and to repeal the original  
7 sections.

8 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 subsections (2) through  
4 (4) of this section, all real property in this state, not expressly  
5 exempt therefrom, shall be subject to taxation and shall be valued at  
6 its actual value.

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

14           (3) Agricultural land and horticultural land actively  
15 devoted to agricultural or horticultural purposes which has value for  
16 purposes other than agricultural or horticultural uses and which  
17 meets the qualifications for special valuation under section 77-1344  
18 shall constitute a separate and distinct class of property for  
19 purposes of property taxation, shall be subject to taxation, and  
20 shall be valued for taxation at seventy-five percent of its special  
21 value as defined in section 77-1343, except for school district  
22 taxation purposes, such land shall be valued at sixty-five percent of  
23 its special value as defined in section 77-1343.

24           (4) Historically significant real property which meets  
25 the qualifications for historic rehabilitation valuation under

1 sections 77-1385 to 77-1394 shall be valued for taxation as provided  
2 in such sections.

3 (5) Tangible personal property, not including motor  
4 vehicles registered for operation on the highways of this state,  
5 shall constitute a separate and distinct class of property for  
6 purposes of property taxation, shall be subject to taxation, unless  
7 expressly exempt from taxation, and shall be valued at its net book  
8 value. Tangible personal property transferred as a gift or devise or  
9 as part of a transaction which is not a purchase shall be subject to  
10 taxation based upon the date the property was acquired by the  
11 previous owner and at the previous owner's Nebraska adjusted basis.  
12 Tangible personal property acquired as replacement property for  
13 converted property shall be subject to taxation based upon the date  
14 the converted property was acquired and at the Nebraska adjusted  
15 basis of the converted property unless insurance proceeds are payable  
16 by reason of the conversion. For purposes of this subsection, (a)  
17 converted property means tangible personal property which is  
18 compulsorily or involuntarily converted as a result of its  
19 destruction in whole or in part, theft, seizure, requisition, or  
20 condemnation, or the threat or imminence thereof, and no gain or loss  
21 is recognized for federal or state income tax purposes by the holder  
22 of the property as a result of the conversion and (b) replacement  
23 property means tangible personal property acquired within two years  
24 after the close of the calendar year in which tangible personal  
25 property was converted and which is, except for date of construction

1 or manufacture, substantially the same as the converted property.

2           Sec. 2. Section 77-5023, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           77-5023 (1) Pursuant to section 77-5022, the commission  
5 shall have the power to increase or decrease the value of a class or  
6 subclass of real property in any county or taxing authority or of  
7 real property valued by the state so that all classes or subclasses  
8 of real property in all counties fall within an acceptable range.

9           (2) An acceptable range is the percentage of variation  
10 from a standard for valuation as measured by an established indicator  
11 of central tendency of assessment. Acceptable ranges are: (a) For  
12 agricultural land and horticultural land as defined in section  
13 77-1359, sixty-nine to seventy-five percent of actual value, except  
14 for school district taxation purposes, fifty-nine to sixty-five  
15 percent of actual value; (b) for lands receiving special valuation,  
16 sixty-nine to seventy-five percent of special valuation as defined in  
17 section 77-1343, except for school district taxation purposes, fifty-  
18 nine to sixty-five percent of special valuation as defined in section  
19 77-1343; and (c) for all other real property, ninety-two to one  
20 hundred percent of actual value.

21           (3) Any increase or decrease shall cause the level of  
22 value determined by the commission to be at the midpoint of the  
23 applicable acceptable range.

24           (4) Any decrease or increase to a subclass of property  
25 shall also cause the level of value determined by the commission for

1 the class from which the subclass is drawn to be within the  
2 applicable acceptable range.

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

7 Sec. 3. Section 79-1016, Revised Statutes Cumulative  
8 Supplement, 2010, is amended to read:

9 79-1016 (1) On or before August 25, the county assessor  
10 shall certify to the Property Tax Administrator the total taxable  
11 value by school district in the county for the current assessment  
12 year on forms prescribed by the Tax Commissioner. The county assessor  
13 may amend the filing for changes made to the taxable valuation of the  
14 school district in the county if corrections or errors on the  
15 original certification are discovered. Amendments shall be certified  
16 to the Property Tax Administrator on or before September 30.

17 (2) On or before October 10, the Property Tax  
18 Administrator shall compute and certify to the State Department of  
19 Education the adjusted valuation for the current assessment year for  
20 each class of property in each school district and each local system.  
21 The adjusted valuation of property for each school district and each  
22 local system, for purposes of determining state aid pursuant to the  
23 Tax Equity and Educational Opportunities Support Act, shall reflect  
24 as nearly as possible state aid value as defined in subsection (3) of  
25 this section. The Property Tax Administrator shall notify each school

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

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

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

16 (b) For agricultural and horticultural land, ~~seventy-two~~  
17 sixty-two percent of actual value as provided in sections 77-1359 ~~to~~  
18 and 77-1363. For agricultural and horticultural land that receives  
19 special valuation pursuant to section 77-1344, ~~seventy-two~~ sixty-two  
20 percent 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 (4) On or before November 10, any local system may file  
24 with the Tax Commissioner written objections to the adjusted  
25 valuations prepared by the Property Tax Administrator, stating the

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

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

1           (6) On or before May 31 of the year following the  
2 certification of adjusted valuation pursuant to subsection (2) of  
3 this section, any local system or county official may file with the  
4 Tax Commissioner a written request for a nonappealable correction of  
5 the adjusted valuation due to changes to the tax list that change the  
6 assessed value of taxable property. Upon the filing of the written  
7 request, the Tax Commissioner shall require the county assessor to  
8 recertify the taxable valuation by school district in the county on  
9 forms prescribed by the Tax Commissioner. The recertified valuation  
10 shall be the valuation that was certified on the tax list, pursuant  
11 to section 77-1613, increased or decreased by changes to the tax list  
12 that change the assessed value of taxable property in the school  
13 district in the county in the prior assessment year. On or before the  
14 following July 31, the Tax Commissioner shall approve or deny the  
15 request and, if approved, certify the corrected adjusted valuations  
16 resulting from such action to the State Department of Education.

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

20           (8) A school district whose state aid is to be calculated  
21 pursuant to subsection (5) of this section and whose state aid  
22 payment is postponed as a result of failure to calculate state aid  
23 pursuant to such subsection may apply to the state board for lump-sum  
24 payment of such postponed state aid. Such application may be for any  
25 amount up to one hundred percent of the postponed state aid. The

1 state board may grant the entire amount applied for or any portion of  
2 such amount. The state board shall notify the Director of  
3 Administrative Services of the amount of funds to be paid in a lump  
4 sum and the reduced amount of the monthly payments. The Director of  
5 Administrative Services shall, at the time of the next state aid  
6 payment made pursuant to section 79-1022, draw a warrant for the  
7 lump-sum amount from appropriated funds and forward such warrant to  
8 the district.

9           Sec. 4. This act becomes operative on January 1, 2012.

10           Sec. 5. Original sections 77-201 and 77-5023, Reissue  
11 Revised Statutes of Nebraska, and section 79-1016, Revised Statutes  
12 Cumulative Supplement, 2010, are repealed.