A BILL FOR AN ACT relating to revenue and taxation; to amend section 13-518, Reissue Revised Statutes of Nebraska, and sections 77-202 and 77-5007, Revised Statutes Cumulative Supplement, 2014; to adopt the Personal Property Tax Relief Act; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 8 of this act shall be known and may be cited as the Personal Property Tax Relief Act.

Sec. 2. For purposes of the Personal Property Tax Relief Act:
(1) Depreciable tangible personal property has the same meaning as in section 77-119; and
(2) Taxpayer means any person owning depreciable tangible personal property which is subject to personal property taxes in Nebraska.

Sec. 3. (1) Depreciable tangible personal property shall be assessed for taxation in the manner provided by law, except that each taxpayer owning depreciable tangible personal property shall receive an exemption from taxation for the first twenty-five thousand dollars of valuation of such property.
(2) On or before February 1 of each year, the Tax Commissioner shall prescribe forms to be used by all taxpayers to claim the personal property exemption provided in this section. Such forms shall contain provisions for the showing of all information which the Tax Commissioner may deem necessary to enable county officials and the Tax Commissioner to determine whether each claim for exemption should be allowed. It shall be the duty of the county assessor of each county in this state to furnish such forms, upon request, to each taxpayer desiring to make application for such exemption. The forms so prescribed shall be used uniformly throughout the state, and no application for exemption shall be allowed unless the taxpayer uses the prescribed form in making an application. The application and information contained on any attachments to the application shall be confidential and available to tax officials only.
(3) Any taxpayer seeking a personal property exemption under this section shall annually file a copy of the forms required pursuant to this section with the county assessor in each county in which the person is requesting exemption. The copy shall be filed on or before May 1. Failure to timely file the required forms shall cause the forfeiture of the exemption for the tax year.
Sec. 4. The county assessor shall examine each application for personal property exemption filed with him or her under section 3 of this act and shall determine whether or not such application should be approved or rejected. If the application is approved, the county assessor shall mark the same approved and sign the application. In case he or she finds that the exemption should not be allowed by reason of not being in conformity to law, the county assessor shall mark the application rejected and state thereon the reason for such rejection and sign the application. In any case in which the county assessor rejects an application for exemption, he or she shall notify the applicant of such action by mailing written notice to the applicant at the address shown in the application, which notice shall be mailed not later than July 31 of each year. The notice shall be on forms prescribed by the Tax Commissioner. In any case in which the county assessor rejects an application for exemption, such applicant may obtain a hearing before the county board of equalization by filing a written complaint with the county clerk within thirty days from receipt of the notice from the county assessor showing such rejection. Such complaint shall specify his or her grievances and the pertinent facts in relation thereto, in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The board may take evidence pertinent to such complaint, and for that purpose may compel the attendance of witnesses and the production of books, records, and papers by subpoena. The board shall issue its decision on the complaint within thirty days after the filing of the complaint. Notice of the board's decision shall be mailed by the county clerk to the applicant within seven days after the decision. The taxpayer shall have the right to appeal from the board's decision with reference to the application for personal property exemption to the Tax Equalization and Review Commission in accordance with section 77-5013 within thirty days after the decision.
Sec. 5. On or before August 1 of each year, the county assessor shall forward the approved applications for personal property exemptions to the Tax Commissioner. The Tax Commissioner shall review the application as necessary to determine whether the application should be approved. The Tax Commissioner shall, on or before November 1, certify his or her determinations to the county assessor. If the application is approved, the county assessor shall make the proper deduction on the assessment rolls. If the application is denied, the Tax Commissioner shall notify the applicant of the denial by mailing written notice to the applicant at the address shown on the application. In any case in which the Tax Commissioner denies a claim for exemption, the applicant may obtain a hearing before the Tax Commissioner by filing a written petition with the Tax Commissioner within thirty days from the receipt of the notice of denial. The petition shall state, in clear and concise language, (1) the amount in controversy, (2) the issues involved, (3) the name and address of the applicant, and (4) a demand for relief. The hearing shall be conducted in accordance with the Administrative Procedure Act. Notice of the Tax Commissioner's decision shall be mailed to the applicant within seven days after the decision. The applicant may appeal the Tax Commissioner's decision to the Tax Equalization and Review Commission in accordance with section 77-5013 within thirty days after the decision.

Sec. 6. (1) Any person who makes any false or fraudulent claim for personal property exemption or any false statement or false representation of a material fact in support of such claim or any person who assists another in the preparation of any such false or fraudulent claim shall be guilty of a Class II misdemeanor and shall be subject to a forfeiture of any such exemption for a period of two years from the date of conviction.

(2) In addition to the penalty provided in subsection (1) of this section, if any person files a claim for exemption as provided in the
Personal Property Tax Relief Act which is excessive due to misstatements by the taxpayer filing such claim, the claim may be disallowed in full and, if the claim has been allowed, an amount equal to the amount of taxes lawfully due but not paid by reason of such unlawful and improper allowance of exemption shall be due and shall upon entry of the amount thereof on the books of the county treasurer be a lien on such property until paid and a penalty equal to the amount of taxes lawfully due but claimed for exemption shall be assessed.

Sec. 7. The county treasurer shall, on or before November 30 of each year, certify to the Tax Commissioner the total tax revenue that will be lost to all taxing agencies within his or her county from taxes levied and assessed in that year because of the personal property exemptions allowed under the Personal Property Tax Relief Act. The Tax Commissioner shall, on or before January 1 next following such certification, notify the Director of Administrative Services of the amount so certified to be reimbursed by the state. Reimbursement of the funds lost shall be made to each county according to the certification and shall be distributed in six as nearly as possible equal monthly payments on the last business day of each month beginning in January. The State Treasurer shall, on the business day preceding the last business day of each month, notify the Director of Administrative Services of the amount of funds available in the General Fund for payment purposes. The Director of Administrative Services shall, on the last business day of each month, draw warrants against funds appropriated. Out of the amount so received the county treasurer shall distribute to each of the taxing agencies within his or her county the full amount so lost by such agency, except that one percent of such amount shall be deposited in the county general fund. Each taxing agency shall, in preparing its annual or biennial budget, take into account the amount to be received under this section.

Sec. 8. The Tax Commissioner may adopt and promulgate rules and
regulations necessary to carry out the Personal Property Tax Relief Act.

Sec. 9. Section 13-518, Reissue Revised Statutes of Nebraska, is amended to read:

13-518 For purposes of sections 13-518 to 13-522:

(1) Allowable growth means (a) for governmental units other than community colleges, the percentage increase in taxable valuation in excess of the base limitation established under section 77-3446, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property which increase the value of such property, and any increase in valuation due to annexation and any personal property valuation over the prior year and (b) for community colleges, the percentage increase in excess of the base limitation, if any, in full-time equivalent students from the second year to the first year preceding the year for which the budget is being determined;

(2) Capital improvements means (a) acquisition of real property or (b) acquisition, construction, or extension of any improvements on real property;

(3) Governing body has the same meaning as in section 13-503;

(4) Governmental unit means every political subdivision which has authority to levy a property tax or authority to request levy authority under section 77-3443 except sanitary and improvement districts which have been in existence for five years or less and school districts;

(5) Qualified sinking fund means a fund or funds maintained separately from the general fund to pay for acquisition or replacement of tangible personal property with a useful life of five years or more which is to be undertaken in the future but is to be paid for in part or in total in advance using periodic payments into the fund. The term includes sinking funds under subdivision (13) of section 35-508 for firefighting and rescue equipment or apparatus;

(6) Restricted funds means (a) property tax, excluding any amounts
refunded to taxpayers, (b) payments in lieu of property taxes, (c) local
option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers
of surpluses from any user fee, permit fee, or regulatory fee if the fee
surplus is transferred to fund a service or function not directly related
to the fee and the costs of the activity funded from the fee, (g) any
funds excluded from restricted funds for the prior year because they were
budgeted for capital improvements but which were not spent and are not
expected to be spent for capital improvements, (h) the tax provided in
sections 77-27,223 to 77-27,227 beginning in the second fiscal year in
which the county will receive a full year of receipts, and (i) any excess
tax collections returned to the county under section 77-1776. Funds
received pursuant to the nameplate capacity tax levied under section
77-6203 for the first five years after a wind energy generation facility
has been commissioned are nonrestricted funds; and

(7) State aid means:

(a) For all governmental units, state aid paid pursuant to sections
60-3,202 and 77-3523 and section 7 of this act;

(b) For municipalities, state aid to municipalities paid pursuant to
sections 18-2605, 39-2501 to 39-2520, 60-3,190, and 77-27,139.04 and
insurance premium tax paid to municipalities;

(c) For counties, state aid to counties paid pursuant to sections
39-2501 to 39-2520 and 60-3,184 to 60-3,190, insurance premium tax paid
to counties, and reimbursements to counties from funds appropriated
pursuant to section 29-3933;

(d) For community colleges, (i) for fiscal years 2010-11, 2011-12,
and 2012-13, state aid to community colleges paid pursuant to section
90-517 and (ii) for fiscal year 2013-14 and each fiscal year thereafter,
state aid to community colleges paid pursuant to the Community College
Aid Act;

(e) For educational service units, state aid appropriated under
sections 79-1241.01 and 79-1241.03; and
(f) For local public health departments as defined in section 71-1626, state aid as distributed under section 71-1628.08.

Sec. 10. Section 77-202, Revised Statutes Cumulative Supplement, 2014, is amended to read:

77-202 (1) The following property shall be exempt from property taxes:

(a) Property of the state and its governmental subdivisions to the extent used or being developed for use by the state or governmental subdivision for a public purpose. For purposes of this subdivision:

(i) Property of the state and its governmental subdivisions means (A) property held in fee title by the state or a governmental subdivision or (B) property beneficially owned by the state or a governmental subdivision in that it is used for a public purpose and is being acquired under a lease-purchase agreement, financing lease, or other instrument which provides for transfer of legal title to the property to the state or a governmental subdivision upon payment of all amounts due thereunder.

If the property to be beneficially owned by a governmental subdivision has a total acquisition cost that exceeds the threshold amount or will be used as the site of a public building with a total estimated construction cost that exceeds the threshold amount, then such property shall qualify for an exemption under this section only if the question of acquiring such property or constructing such public building has been submitted at a primary, general, or special election held within the governmental subdivision and has been approved by the voters of the governmental subdivision. For purposes of this subdivision, threshold amount means the greater of fifty thousand dollars or six-tenths of one percent of the total actual value of real and personal property of the governmental subdivision that will beneficially own the property as of the end of the governmental subdivision's prior fiscal year; and

(ii) Public purpose means use of the property (A) to provide public services with or without cost to the recipient, including the general
operation of government, public education, public safety, transportation, 
public works, civil and criminal justice, public health and welfare, 
developments by a public housing authority, parks, culture, recreation, 
community development, and cemetery purposes, or (B) to carry out the 
duties and responsibilities conferred by law with or without 
consideration. Public purpose does not include leasing of property to a 
private party unless the lease of the property is at fair market value 
for a public purpose. Leases of property by a public housing authority to 
low-income individuals as a place of residence are for the authority's 
public purpose;

  (b) Unleased property of the state or its governmental subdivisions 
which is not being used or developed for use for a public purpose but 
upon which a payment in lieu of taxes is paid for public safety, rescue, 
and emergency services and road or street construction or maintenance 
services to all governmental units providing such services to the 
property. Except as provided in Article VIII, section 11, of the 
Constitution of Nebraska, the payment in lieu of taxes shall be based on 
the proportionate share of the cost of providing public safety, rescue, 
or emergency services and road or street construction or maintenance 
services unless a general policy is adopted by the governing body of the 
governmental subdivision providing such services which provides for a 
different method of determining the amount of the payment in lieu of 
taxes. The governing body may adopt a general policy by ordinance or 
resolution for determining the amount of payment in lieu of taxes by 
majority vote after a hearing on the ordinance or resolution. Such 
ordinance or resolution shall nevertheless result in an equitable 
contribution for the cost of providing such services to the exempt 
property;

  (c) Property owned by and used exclusively for agricultural and 
horticultural societies;

  (d) Property owned by educational, religious, charitable, or
cemetery organizations, or any organization for the exclusive benefit of
any such educational, religious, charitable, or cemetery organization,
and used exclusively for educational, religious, charitable, or cemetery
purposes, when such property is not (i) owned or used for financial gain
or profit to either the owner or user, (ii) used for the sale of
alcoholic liquors for more than twenty hours per week, or (iii) owned or
used by an organization which discriminates in membership or employment
based on race, color, or national origin. For purposes of this
subdivision, educational organization means (A) an institution operated
exclusively for the purpose of offering regular courses with systematic
instruction in academic, vocational, or technical subjects or assisting
students through services relating to the origination, processing, or
guarantying of federally reinsured student loans for higher education or
(B) a museum or historical society operated exclusively for the benefit
and education of the public. For purposes of this subdivision, charitable
organization means an organization operated exclusively for the purpose
of the mental, social, or physical benefit of the public or an indefinite
number of persons; and
(e) Household goods and personal effects not owned or used for
financial gain or profit to either the owner or user.
(2) The increased value of land by reason of shade and ornamental
trees planted along the highway shall not be taken into account in the
valuation of land.
(3) Tangible personal property which is not depreciable tangible
personal property as defined in section 77-119 shall be exempt from
property tax.
(4) Motor vehicles required to be registered for operation on the
highways of this state shall be exempt from payment of property taxes.
(5) Business and agricultural inventory shall be exempt from the
personal property tax. For purposes of this subsection, business
inventory includes personal property owned for purposes of leasing or
renting such property to others for financial gain only if the personal property is of a type which in the ordinary course of business is leased or rented thirty days or less and may be returned at the option of the lessee or renter at any time and the personal property is of a type which would be considered household goods or personal effects if owned by an individual. All other personal property owned for purposes of leasing or renting such property to others for financial gain shall not be considered business inventory.

(6) Any personal property exempt pursuant to subsection (2) of section 77-4105 or section 77-5209.02 shall be exempt from the personal property tax.

(7) Livestock shall be exempt from the personal property tax.

(8) Any personal property exempt pursuant to the Nebraska Advantage Act shall be exempt from the personal property tax.

(9) Any depreciable tangible personal property used directly in the generation of electricity using wind as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property. Depreciable tangible personal property used directly in the generation of electricity using wind as the fuel source includes, but is not limited to, wind turbines, rotors and blades, towers, trackers, generating equipment, transmission components, substations, supporting structures or racks, inverters, and other system components such as wiring, control systems, switchgears, and generator step-up transformers.

(10) Any tangible personal property that is acquired by a person operating a data center located in this state, that is assembled, engineered, processed, fabricated, manufactured into, attached to, or incorporated into other tangible personal property, both in component form or that of an assembled product, for the purpose of subsequent use at a physical location outside this state by the person operating a data center shall be exempt from the personal property tax. Such exemption extends to keeping, retaining, or exercising any right or power over
tangible personal property in this state for the purpose of subsequently
transporting it outside this state for use thereafter outside this state.
For purposes of this subsection, data center means computers, supporting
equipment, and other organized assembly of hardware or software that are
designed to centralize the storage, management, or dissemination of data
and information, environmentally controlled structures or facilities or
interrelated structures or facilities that provide the infrastructure for
housing the equipment, such as raised flooring, electricity supply,
communication and data lines, Internet access, cooling, security, and
fire suppression, and any building housing the foregoing.

(11) The first twenty-five thousand dollars of valuation of
depreciable tangible personal property shall be exempt from the personal
property tax as provided in the Personal Property Tax Relief Act.

Sec. 11. Section 77-5007, Revised Statutes Cumulative Supplement,
2014, is amended to read:

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

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

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

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

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

(5) Decisions of any county board of equalization on the valuation
of personal property or any penalties imposed under sections 77-1233.04
and 77-1233.06;
(6) Decisions of any county board of equalization on claims that a levy is or is not for an unlawful or unnecessary purpose or in excess of the requirements of the county;

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

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

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

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

(11) Any other decision of the Tax Commissioner regarding property valuation, exemption, or taxation;

(12) Decisions of the Tax Commissioner pursuant to section 77-3520 and section 5 of this act;

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

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

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

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

Sec. 12. This act becomes operative on January 1, 2016.

Sec. 13. Original section 13-518, Reissue Revised Statutes of Nebraska, and sections 77-202 and 77-5007, Revised Statutes Cumulative Supplement, 2014, are repealed.