LEGISLATIVE BILL 338

Introduced by Brasch, 16; at the request of the Governor.
Read first time January 12, 2017
Committee: Revenue

A BILL FOR AN ACT relating to revenue and taxation; to amend sections 46-294.03, 77-103.01, 77-1507.01, 77-5023, and 79-1016, Reissue Revised Statutes of Nebraska, and sections 76-710.04, 77-201, 77-1327, 77-1359, 77-1363, 77-1371, 77-1502, 77-4212, 77-5007, 77-5022, and 79-1036, Revised Statutes Cumulative Supplement, 2016; to adopt the Agricultural Valuation Fairness Act; to change and eliminate provisions relating to the valuation of agricultural land and horticultural land and protests of such valuation; to change the Tax Equalization and Review Commission Act; to harmonize provisions; to provide an operative date; to repeal the original sections; and to outright repeal sections 77-1343, 77-1344, 77-1345, 77-1345.01, 77-1346, and 77-1347.01, Reissue Revised Statutes of Nebraska, and section 77-1347, Revised Statutes Cumulative Supplement, 2016.

Be it enacted by the people of the State of Nebraska,
Section 1. Sections 1 to 9 of this act shall be known and may be cited as the Agricultural Valuation Fairness Act.

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

1. The agricultural industry is a vital part of the economy of this state;
2. The nature of the agricultural industry and commodity prices affect the value of agricultural land and horticultural land;
3. All agricultural land and horticultural land in Nebraska has an actual value as defined in section 77-112 reflecting purposes or uses other than agricultural or horticultural purposes or uses;
4. Market influences to use agricultural land and horticultural land for purposes other than agricultural or horticultural purposes are present throughout the state and cause the prices paid for agricultural land and horticultural land to exceed the value such land has for agricultural or horticultural purposes;
5. The best and most uniform way to exclude any value that agricultural land and horticultural land has for purposes other than agricultural or horticultural purposes is to rely on the income-producing characteristics of the land; and
6. Agricultural land and horticultural land should be assessed at its agricultural use value using an income approach that complies with professionally accepted mass appraisal techniques.

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

1. Agricultural land and horticultural land means a parcel of land, excluding land associated with a building or enclosed structure located on the parcel, which is primarily used for agricultural or horticultural purposes, including wasteland lying in or adjacent to and in common ownership or management with other agricultural land and horticultural land;
(2) Agricultural or horticultural purposes means used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture. Agricultural or horticultural purposes includes the following uses of land:

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

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

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

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

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

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

77-1359 The Legislature finds and declares that

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

(2) The assessed value of agricultural land and horticultural land shall not be uniform and proportionate with all other real property, but
the assessed value shall be uniform and proportionate within the class of agricultural land and horticultural land.

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

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

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

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

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

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

For purposes of this section and section 77-1363:

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

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

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

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

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

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

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

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

(2) For purposes of assessing agricultural land and horticultural land using the income-approach calculation, agricultural land and horticultural land shall be divided into classes and subclasses
of real property under section 77-103.01, including, but not limited to, irrigated cropland, dryland cropland, grassland, wasteland, nurseries, feedlots, and orchards, so that the categories reflect uses appropriate for the valuation of such land according to law. Classes shall be inventoried by subclasses of real property based on soil classification standards developed by the Natural Resources Conservation Service of the United States Department of Agriculture as converted into land capability groups by the Property Tax Administrator.

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

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

Sec. 6. The Property Tax Administrator may solicit information on the sale of any agricultural land and horticultural land beyond the information reported pursuant to section 77-1327. The Property Tax Administrator shall, after reviewing all such information, establish a range of net incomes for all land capability groups in the state, by county and by land use, based on the previous ten years’ information. The income ranges shall be based on the average yield information for the ten prior years published by the United States Department of Agriculture for those commodities appropriate for each land capability group. The Property Tax Administrator shall also consider prices for each commodity on which the average yield is based. The Property Tax Administrator shall issue a report of his or her findings and recommendations to each county assessor in Nebraska no later than January 1 of each year.
Sec. 7. The Property Tax Administrator shall establish the capitalization rates to be applied to each class or subclass of agricultural land and horticultural land within each county. The Property Tax Administrator shall ensure that the capitalization rates established under this section result in an aggregate agricultural use value for the class of agricultural land and horticultural land that is between sixty and seventy-five percent of the actual value that the agricultural land and horticultural land has for agricultural or horticultural purposes. However, the aggregate agricultural use value so established shall not increase more than three and one-half percent from the prior year.

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

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

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

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

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

Sec. 9. The Tax Commissioner may adopt and promulgate rules and
regulations as necessary to carry out the Agricultural Valuation Fairness Act.

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

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

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

(a) Agricultural use means the use of land as described in section 313 of this act 77-1359, so that incidental use of the land for nonagricultural or nonhorticultural purposes shall not disqualify the land; and

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

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

46-294.03 For purposes of assessment pursuant to the Agricultural
Valuation Fairness Act sections 77-1343 to 77-1363, neither the temporary transfer or change of an appropriation nor any resulting land-use changes on the land to which the appropriation was appurtenant prior to the transfer or change shall cause the land to be reclassified to a lower value use or the valuation of the land to be reduced, but the land may be reclassified to a higher value use and its valuation may be increased if a higher value use is made of the land while the temporary transfer or change is in effect. Land from which an appropriation has been permanently transferred shall be classified and valued for tax purposes in accordance with the use of the land after the transfer.

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

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

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

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

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

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

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

(d) Acquiring abandoned property;

(e) Clearing defective property title;
(f) Taking private property for use by a utility or railroad;

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

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

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

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

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

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

(2) Agricultural land and horticultural land as defined in section 3 of this act 77-1359 shall constitute a separate and distinct class of
property for purposes of property taxation, shall be subject to taxation, unless expressly exempt from taxation, and shall be valued at seventy-five percent of its agricultural use actual value as provided in the Agricultural Valuation Fairness Act.

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

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

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

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

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

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

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

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

(4) (5) County assessors and other taxing officials shall
electronically report data on the assessed valuation and other features
of the property assessment process for such periods and in such form and
content as the Property Tax Administrator shall deem appropriate. The
Property Tax Administrator shall so construct and maintain the system
used to collect and analyze the data to enable him or her to make
intracounty comparisons of assessed valuation, including school districts
and other political subdivisions, as well as intercounty comparisons of
assessed valuation, including school districts and other political
subdivisions. The Property Tax Administrator shall include analysis of real property sales pursuant to land contracts and similar transfers at the time of execution of the contract or similar transfer.

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

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

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

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

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

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

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

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

(7) Whether sales of undivided interests in real property or parcels less than forty acres or sales conveying only a portion of the unit
assessed reflect current market value;

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

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

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

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

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

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

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

The Property Tax Administrator may issue guidelines for assessing officials for use in determining what constitutes a comparable sale.
Guidelines shall take into account the factors listed in this section and other relevant factors as prescribed by the Property Tax Administrator.

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

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

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

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

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

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

(6) The county clerk or county assessor shall prepare a separate
report on each protest. The report shall include (a) a description
adequate to identify the real property or a physical description of the
tangible personal property to which the protest applies, (b) any
recommendation of the county assessor for action on the protest, (c) if a
referee is used, the recommendation of the referee, (d) the date the
county board of equalization heard the protest, (e) the decision made by
the county board of equalization, (f) the date of the decision, and (g)
the date notice of the decision was mailed to the protester. The report
shall contain, or have attached to it, a statement, signed by the
chairperson of the county board of equalization, describing the basis
upon which the board's decision was made. The report shall have attached
to it a copy of that portion of the property record file which
substantiates calculation of the protested value unless the county
assessor certifies to the county board of equalization that a copy is
maintained in either electronic or paper form in his or her office. One
copy of the report, if prepared by the county clerk, shall be given to
the county assessor on or before August 2. The county assessor shall have
no authority to make a change in the assessment rolls until there is in
his or her possession a report which has been completed in the manner
specified in this section. If the county assessor deems a report
submitted by the county clerk incomplete, the county assessor shall
return the same to the county clerk for proper preparation.

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

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

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

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

77-4212 (1) For tax year 2007, the amount of relief granted under
the Property Tax Credit Act shall be one hundred five million dollars.
For tax year 2008, the amount of relief granted under the act shall be
one hundred fifteen million dollars. It is the intent of the Legislature
to fund the Property Tax Credit Act for tax years after tax year 2008
using available revenue. For tax year 2017, the amount of relief granted
under the act shall be two hundred twenty-four million dollars. The
relief shall be in the form of a property tax credit which appears on the
property tax statement.

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

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

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

(4)(a) For tax years prior to tax year 2017, the amount disbursed to
each county shall be equal to the amount available for disbursement
determined under subsection (1) of this section multiplied by the ratio
of the real property valuation in the county to the real property
valuation in the state. By September 15, the Property Tax Administrator
shall determine the amount to be disbursed under this subdivision to each
county and certify such amounts to the State Treasurer and to each county. The disbursements to the counties shall occur in two equal payments, the first on or before January 31 and the second on or before April 1. After retaining one percent of the receipts for costs, the county treasurer shall allocate the remaining receipts to each taxing unit levying taxes on taxable property in the tax district in which the real property is located in the same proportion that the levy of such taxing unit bears to the total levy on taxable property of all the taxing units in the tax district in which the real property is located.

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

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

(6) The State Treasurer shall transfer from the General Fund to the Property Tax Credit Cash Fund one hundred five million dollars by August
1, 2007, and one hundred fifteen million dollars by August 1, 2008.

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

Sec. 20. Section 77-5007, Revised Statutes Cumulative Supplement, 2016, 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;

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

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

(15) 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

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

(17) 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. 21. Section 77-5022, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

(b) For agricultural land and horticultural land, the agricultural use seventy-two percent of actual value as provided in the Agricultural Valuation Fairness Act sections 77-1359 to 77-1363. For agricultural and horticultural land that receives special valuation pursuant to section 77-1344, seventy-two percent of special valuation as defined in section 77-1343; and
(c) For personal property, the net book value as defined in section 77-120.

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

(5) On or before November 10, any local system or county official may file with the Tax Commissioner a written request for a nonappealable correction of the adjusted valuation due to clerical error as defined in section 77-128 or, for agricultural and horticultural land, assessed value changes by reason of land qualified or disqualified for special use valuation pursuant to sections 77-1343 to 77-1347. On or before the following January 1, the Tax Commissioner shall approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from such action to the State Department of Education.

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

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

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

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

79-1036 (1) In making the apportionment under section 79-1035, the
Commissioner of Education shall distribute from the school fund for
school purposes to (a) for school fiscal years prior to school fiscal year 2017-18, any and all learning communities and school districts which are not members of a learning community, and (b) for school fiscal year 2017-18 and each school fiscal year thereafter, all school districts in which there are situated school lands which have not been sold and transferred by deed or saline lands owned by the state, which lands are being used for a public purpose, an amount in lieu of tax money that would be raised by school district levies if such lands were taxable, to be ascertained in accordance with subsection (2) of this section, except that:

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

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

(iii) For Class I districts or portions thereof which are part of a Class VI district which offers instruction in grades seven through twelve and in which there are situated school or saline lands, 55.1724 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the Class VI school system levy computed pursuant to section 79-1078, shall be distributed to the Class VI district and the remainder shall be distributed to the Class I district; and
(iv) For Class I districts or portions thereof which are part of a Class VI district which offers instruction in grades six through twelve and in which there are situated school or saline lands, 62.0690 percent of the in lieu of land tax money calculated pursuant to subsection (2) of this section, based on the Class VI school system levy computed pursuant to section 79-1078, shall be distributed to the Class VI district and the remainder shall be distributed to the Class I district.

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

Sec. 25. This act becomes operative on January 1, 2019.
Sec. 26. Original sections 19-2428, 46-294.03, 77-103.01, 77-1507.01, 77-5023, and 79-1016, Reissue Revised Statutes of Nebraska, and sections 76-710.04, 77-201, 77-1327, 77-1359, 77-1363, 77-1371, 77-1502, 77-4212, 77-5007, 77-5022, and 79-1036, Revised Statutes Cumulative Supplement, 2016, are repealed.

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