

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 483

Introduced by Erdman, 47.

Read first time January 22, 2019

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 46-294.03, 77-103.01, 77-201, 77-1343, 77-1359, 77-1371, 77-1502,
3 77-1507.01, 77-5022, 77-5023, and 77-6203, Reissue Revised Statutes
4 of Nebraska, and sections 79-1016 and 79-1036, Revised Statutes
5 Cumulative Supplement, 2018; to change the valuation of agricultural
6 land and horticultural land as prescribed; to create the
7 Agricultural Land Valuation Board; to eliminate provisions relating
8 to land classifications; to harmonize provisions; to provide
9 operative dates; to repeal the original sections; to outright repeal
10 section 77-1363, Reissue Revised Statutes of Nebraska; and to
11 declare an emergency.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 46-294.03, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 46-294.03 For purposes of assessment of agricultural land and
4 horticultural land as defined in section 77-1359 ~~pursuant to sections~~
5 ~~77-1343 to 77-1363~~, neither the temporary transfer or change of an
6 appropriation nor any resulting land-use changes on the land to which the
7 appropriation was appurtenant prior to the transfer or change shall cause
8 the land to be reclassified to a lower value use or the valuation of the
9 land to be reduced, but the land may be reclassified to a higher value
10 use and its valuation may be increased if a higher value use is made of
11 the land while the temporary transfer or change is in effect. Land from
12 which an appropriation has been permanently transferred shall be
13 classified and valued for tax purposes in accordance with the use of the
14 land after the transfer.

15 Sec. 2. Section 77-103.01, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 77-103.01 Class or subclass of real property means a group of
18 properties that share one or more characteristics typically common to all
19 the properties in the class or subclass, but are not typically found in
20 the properties outside the class or subclass. Class or subclass includes,
21 but is not limited to, the classifications of agricultural land and ~~or~~
22 horticultural land listed in section 7 of this act ~~77-1363~~, parcel use,
23 parcel type, location, geographic characteristics, zoning, city size,
24 parcel size, and market characteristics appropriate for the valuation of
25 such land. A class or subclass based on market characteristics shall be
26 based on characteristics that affect the actual value in a different
27 manner than it affects the actual value of properties not within the
28 market characteristic class or subclass.

29 Sec. 3. Section 77-201, Reissue Revised Statutes of Nebraska, is
30 amended to read:

31 77-201 (1) Except as provided in subsections (2) through (4) of this

1 section, all real property in this state, not expressly exempt therefrom,
2 shall be subject to taxation and shall be valued at its actual value.

3 (2) Agricultural land and horticultural land as defined in section
4 77-1359 shall constitute a separate and distinct class of property for
5 purposes of property taxation, shall be subject to taxation, unless
6 expressly exempt from taxation, and shall be valued at ~~seventy-five~~
7 ~~percent~~ of its agricultural productivity value as defined in section
8 77-1359 actual value.

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

17 (4) Historically significant real property which meets the
18 qualifications for historic rehabilitation valuation under sections
19 77-1385 to 77-1394 shall be valued for taxation as provided in such
20 sections.

21 (5) Tangible personal property, not including motor vehicles,
22 trailers, and semitrailers registered for operation on the highways of
23 this state, shall constitute a separate and distinct class of property
24 for purposes of property taxation, shall be subject to taxation, unless
25 expressly exempt from taxation, and shall be valued at its net book
26 value. Tangible personal property transferred as a gift or devise or as
27 part of a transaction which is not a purchase shall be subject to
28 taxation based upon the date the property was acquired by the previous
29 owner and at the previous owner's Nebraska adjusted basis. Tangible
30 personal property acquired as replacement property for converted property
31 shall be subject to taxation based upon the date the converted property

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

13 Sec. 4. Section 77-1343, Reissue Revised Statutes of Nebraska, is
14 amended to read:

15 77-1343 The purpose of sections 77-1343 to 77-1347.01 is to provide
16 a special valuation for qualified agricultural or horticultural land so
17 that the current assessed valuation of the land for property tax purposes
18 is the value that the land would have without regard to the value the
19 land would have for other purposes or uses. For purposes of sections
20 77-1343 to 77-1347.01:

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

23 (2) Applicant means an owner or lessee;

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

27 (4) Owner means an owner of record of agricultural or horticultural
28 land or the purchaser of agricultural or horticultural land under a
29 contract for sale; and

30 (5) Special valuation means the value that the land would have for
31 agricultural or horticultural purposes or uses without regard to the

1 actual value the land would have for other purposes or uses. The special
2 valuation of land shall be equal to the land's agricultural productivity
3 value as defined in section 77-1359.

4 Sec. 5. Section 77-1359, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 77-1359 The Legislature finds and declares that agricultural land
7 and horticultural land shall be a separate and distinct class of real
8 property for purposes of assessment. The assessed value of agricultural
9 land and horticultural land shall not be uniform and proportionate with
10 all other real property, but the assessed value shall be uniform and
11 proportionate within the class of agricultural land and horticultural
12 land.

13 For purposes of this section and sections 6 to 9 of this act section
14 77-1363:

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

21 (2) Agricultural productivity value means the value of agricultural
22 land and horticultural land used for purposes of assessment. Such value
23 shall be determined pursuant to this section and sections 6 to 9 of this
24 act;

25 (3)(a) (2)(a) Agricultural or horticultural purposes means used for
26 the commercial production of any plant or animal product in a raw or
27 unprocessed state that is derived from the science and art of
28 agriculture, aquaculture, or horticulture;

29 (b) Agricultural or horticultural purposes includes the following
30 uses of land:

31 (i) Land retained or protected for future agricultural or

1 horticultural purposes under a conservation easement as provided in the
2 Conservation and Preservation Easements Act except when the parcel or a
3 portion thereof is being used for purposes other than agricultural or
4 horticultural purposes; and

5 (ii) Land enrolled in a federal or state program in which payments
6 are received for removing such land from agricultural or horticultural
7 production; and

8 (c) Whether a parcel of land is primarily used for agricultural or
9 horticultural purposes shall be determined without regard to whether some
10 or all of the parcel is platted and subdivided into separate lots or
11 developed with improvements consisting of streets, sidewalks, curbs,
12 gutters, sewer lines, water lines, or utility lines;

13 (4) ~~(3)~~ Farm home site means land contiguous to a farm site which
14 includes an inhabitable residence and improvements used for residential
15 purposes and which is located outside of urban areas or outside a platted
16 and zoned subdivision; and

17 (5) ~~(4)~~ Farm site means the portion of land contiguous to land
18 actively devoted to agriculture which includes improvements that are
19 agricultural or horticultural in nature, including any uninhabitable or
20 unimproved farm home site.

21 Sec. 6. (1) For tax year 2020 and each tax year thereafter, the
22 agricultural productivity value of agricultural land and horticultural
23 land shall be determined based upon the land's capitalized net earning
24 capacity. County assessors shall determine capitalized net earning
25 capacity by using an agricultural land valuation manual developed and
26 updated by the Agricultural Land Valuation Board under section 9 of this
27 act. Such manual shall utilize the methods described in subsections (2)
28 and (3) of this section to determine the agricultural productivity value
29 of agricultural land and horticultural land.

30 (2) Except as provided in subsection (3) of this section, the
31 agricultural productivity value of agricultural land and horticultural

1 land shall be determined by:

2 (a) Dividing agricultural land and horticultural land into the major
3 use categories described in section 7 of this act and dividing such
4 categories into subclasses based on soil productivity classifications;

5 (b) Computing a net revenue based on an eight-year Olympic average
6 of annual net incomes where the one-year high and the one-year low are
7 discarded, as determined by the method described in section 8 of this
8 act; and

9 (c) Dividing the net revenue by the appropriate discount rate, as
10 determined under section 8 of this act.

11 (3) The agricultural productivity value for wasteland, including,
12 but not limited to, forest land and shelter belts, shall be set by the
13 Agricultural Land Valuation Board.

14 Sec. 7. (1) For tax year 2020 and each tax year thereafter,
15 agricultural land and horticultural land shall be separated into the
16 following five major categories: Irrigated cropland; dryland cropland;
17 irrigated grassland; non-irrigated grassland; and wasteland.

18 (2) The Agricultural Land Valuation Board created in section 9 of
19 this act shall create special categories for intensive agricultural uses,
20 such as nurseries, feedlots, and orchards.

21 Sec. 8. (1) For tax year 2020 and each tax year thereafter, the
22 property assessment division of the Department of Revenue shall, subject
23 to the direction and oversight of the Agricultural Land Valuation Board
24 created in section 9 of this act, make the following determinations and
25 calculations with respect to irrigated cropland and dryland cropland:

26 (a) For each category, a county-wide eight-year Olympic average
27 production in bushels per acre shall first be determined with the one-
28 year high and the one-year low discarded;

29 (b) The county-wide acre weighted average of the appropriate Natural
30 Resources Conservation Service index for the acres in each category shall
31 be determined. For irrigated cropland, the appropriate index shall be the

1 Irrigation Commodity Crop Productivity Index. For dryland cropland, the
2 appropriate index shall be the National Commodity Crop Productivity
3 Index;

4 (c) For each category, the net revenue per acre shall be calculated
5 by multiplying the value determined under subdivision (1)(a) of this
6 section by the appropriate commodity price;

7 (d) The landlord share shall be calculated by multiplying the net
8 revenue calculated in subdivision (1)(c) of this section by thirty-five
9 percent;

10 (e) A capitalized net earning value shall be calculated by dividing
11 the landlord share per acre by the discount rate described in subsection
12 (4) of this section;

13 (f) The capitalized net earning value shall be converted from
14 dollars per acre to dollars per index point by dividing the value
15 calculated in subdivision (1)(e) of this section by the value calculated
16 in subdivision (1)(b) of this section. The dollars per index point shall
17 be the sole factor required by county assessors to set the agricultural
18 productivity value for each parcel of property; and

19 (g) The property assessment division shall report the determinations
20 and calculations made under this subsection to the Agricultural Land
21 Valuation Board for inclusion in the agricultural land valuation manual
22 developed and updated by the board under section 9 of this act.

23 (2) For tax year 2020 and each tax year thereafter, the property
24 assessment division of the Department of Revenue shall, subject to the
25 direction and oversight of the Agricultural Land Valuation Board, make
26 the following determinations and calculations with respect to non-
27 irrigated grassland:

28 (a) The going rental rate for grazing in dollars per animal unit
29 month shall be determined by using data provided by the Department of
30 Agricultural Economics of the University of Nebraska-Lincoln or another
31 appropriate source;

1 (b) The production capability source for non-irrigated grassland
2 shall be the Natural Resources Conservation Service's range production
3 rating in a normal year;

4 (c) A capitalized net earning value shall be calculated by dividing
5 the dollars per animal unit month determined under subdivision (2)(a) of
6 this section by the discount rate described in subsection (4) of this
7 section;

8 (d) The capitalized net earning value shall be converted from
9 dollars per animal unit month to dollars per index point by dividing the
10 value calculated in subdivision (2)(c) of this section by the value
11 calculated in subdivision (2)(b) of this section. The dollars per index
12 point shall be the sole factor required by county assessors to set the
13 agricultural productivity value for each parcel of property; and

14 (e) The property assessment division shall report the determinations
15 and calculations made under this subsection to the Agricultural Land
16 Valuation Board for inclusion in the agricultural land valuation manual.

17 (3) For tax year 2020 and each tax year thereafter, the Agricultural
18 Land Valuation Board shall determine the appropriate method for valuing
19 irrigated grassland and shall include such method in the agricultural
20 land valuation manual.

21 (4) For tax year 2020 and each tax year thereafter, the Agricultural
22 Land Valuation Board shall set separate discount rates for each county.
23 The discount rates shall be set according to each county's eight-year
24 Olympic average of annual precipitation, where the one-year high and the
25 one-year low are discarded. When annual precipitation levels vary within
26 a county by more than two inches, the board may, at its discretion,
27 prescribe separate discount rates to be used within the county. For tax
28 year 2020, the board shall set the discount rates so that the total
29 agricultural productivity value of all agricultural land and
30 horticultural land is the same as the total assessed value of such land
31 for 2019. For tax year 2021 and each tax year thereafter, the board shall

1 set the discount rates so that the total agricultural productivity value
2 of all agricultural land and horticultural land deviates from the total
3 agricultural productivity value from the prior tax year by no more than
4 fifteen percent.

5 Sec. 9. (1) There is hereby created the Agricultural Land Valuation
6 Board, which shall consist of eight members, six of whom shall be
7 appointed by the Governor with the approval of the Legislature. The six
8 members appointed by the Governor shall be chosen from the following
9 categories:

10 (a) One person involved in livestock production;

11 (b) One person involved in agricultural crop production;

12 (c) One person from a farm advocacy organization;

13 (d) One person with a county assessor certificate issued under
14 section 77-422;

15 (e) One person from the Department of Agricultural Economics of the
16 University of Nebraska-Lincoln; and

17 (f) One person from a commodity check-off board.

18 (2) The Tax Commissioner shall serve as the seventh member of the
19 Agricultural Land Valuation Board and shall be granted the same right to
20 vote as other members.

21 (3) The Director of Agriculture shall be the eighth member of the
22 Agricultural Land Valuation Board, shall be the board's chairperson, and
23 shall have the same right to vote as other members.

24 (4) Members of the Agricultural Land Valuation Board shall be
25 reimbursed for their actual and necessary expenses as provided in
26 sections 81-1174 to 81-1177. In addition, appointed board members shall
27 be compensated at five hundred dollars per meeting of the board, not to
28 exceed six thousand dollars per year, except that during 2019 appointed
29 board members may be compensated up to twenty-four thousand dollars for
30 the year.

31 (5) The initial appointments to the Agricultural Land Valuation

1 Board shall be made by the Governor on or before June 1, 2019.
2 Thereafter, appointments to the board shall be made by December 1 of the
3 relevant year. The appointed members shall serve four-year terms, except
4 that of the initial members appointed, those specified in subdivisions
5 (1)(a), (b), and (c) of this section shall serve until December 1, 2022,
6 and the remaining members shall serve until December 1, 2024.

7 (6) The Agricultural Land Valuation Board shall meet at least twice
8 annually or more often at the call of the chairperson or at the call of a
9 majority of the board members.

10 (7) The Agricultural Land Valuation Board shall:

11 (a) Develop and approve by majority vote an agricultural land
12 valuation manual to be used by county assessors in determining the
13 agricultural productivity value of agricultural land and horticultural
14 land. Such manual shall be provided to county assessors on an annual
15 basis;

16 (b) Select and approve by majority vote the data sources to be used
17 by the board in developing the agricultural land valuation manual;

18 (c) Set the discount rates as described in subsection (4) of section
19 8 of this act;

20 (d) Make a written report to the Governor each year stating whether
21 the agricultural land valuation manual was properly applied in
22 determining the agricultural productivity value of agricultural land and
23 horticultural land;

24 (e) Make recommendations to the Revenue Committee of the Legislature
25 each year as to improvements or refinements in the method used to value
26 agricultural land and horticultural land; and

27 (f) Participate in a public hearing with the Tax Commissioner and
28 the Property Tax Administrator on each updated version of the
29 agricultural land valuation manual.

30 (8) The Agricultural Land Valuation Board shall prepare the
31 agricultural land valuation manual in accordance with section 77-1359 and

1 sections 6 to 9 of this act. The board shall create the initial version
2 of the manual by December 31, 2019, and shall update the manual by
3 November 30 of each year thereafter. Beginning in 2020, the board shall
4 vote on or before November 30 of each year to approve the update to the
5 manual. In the event the board fails to approve an update to the manual
6 by November 30, the Director of Agriculture shall have ten days after
7 such date to make final revisions to the manual.

8 Sec. 10. Section 77-1371, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 77-1371 Comparable sales are recent sales of properties that are
11 similar to the property being assessed in significant physical,
12 functional, and location characteristics and in their contribution to
13 value. When using comparable sales in determining actual value of an
14 individual property under the sales comparison approach provided in
15 section 77-112, the following guidelines shall be considered in
16 determining what constitutes a comparable sale:

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

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

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

24 (3) ~~(4)~~ Whether sales or transfers made in connection with
25 foreclosure, bankruptcy, or condemnations, in lieu of foreclosure, or in
26 consideration of other legal actions should be excluded from comparable
27 sales analysis as not reflecting current market value;

28 (4) ~~(5)~~ Whether sales between family members within the third degree
29 of consanguinity include considerations that fail to reflect current
30 market value;

31 (5) ~~(6)~~ Whether sales to or from federal or state agencies or local

1 political subdivisions reflect current market value;

2 (6) ~~(7)~~ Whether sales of undivided interests in real property or
3 parcels less than forty acres or sales conveying only a portion of the
4 unit assessed reflect current market value;

5 (7) ~~(8)~~ Whether sales or transfers of property in exchange for other
6 real estate, stocks, bonds, or other personal property reflect current
7 market value;

8 (8) ~~(9)~~ Whether deeds recorded for transfers of convenience,
9 transfers of title to cemetery lots, mineral rights, and rights of
10 easement reflect current market value;

11 (9) ~~(10)~~ Whether sales or transfers of property involving railroads
12 or other public utility corporations reflect current market value;

13 (10) ~~(11)~~ Whether sales of property substantially improved
14 subsequent to assessment and prior to sale should be adjusted to reflect
15 current market value or eliminated from such analysis; and

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

22 (11) ~~(13)~~ Whether sales or transfers of property are in a similar
23 market area and have similar characteristics to the property being
24 assessed; ~~and~~

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

1 ~~be used to determine what constitutes a comparable sale.~~

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

6 Sec. 11. Section 77-1502, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-1502 (1) The county board of equalization shall meet for the
9 purpose of reviewing and deciding written protests filed pursuant to this
10 section beginning on or after June 1 and ending on or before July 25 of
11 each year. Protests regarding real property shall be signed and filed
12 after the county assessor's completion of the real property assessment
13 roll required by section 77-1315 and on or before June 30. For protests
14 of real property, a protest shall be filed for each parcel. Protests
15 regarding taxable tangible personal property returns filed pursuant to
16 section 77-1229 from January 1 through May 1 shall be signed and filed on
17 or before June 30. The county board in a county with a population of more
18 than one hundred thousand inhabitants based upon the most recent federal
19 decennial census may adopt a resolution to extend the deadline for
20 hearing protests from July 25 to August 10. The resolution must be
21 adopted before July 25 and it will affect the time for hearing protests
22 for that year only. By adopting such resolution, such county waives any
23 right to petition the Tax Equalization and Review Commission for
24 adjustment of a class or subclass of real property under section
25 77-1504.01 for that year.

26 (2) Each protest shall be signed and filed with the county clerk of
27 the county where the property is assessed. The protest shall contain or
28 have attached a statement of the reason or reasons why the requested
29 change should be made and a description of the property to which the
30 protest applies. If the property is real property, a description adequate
31 to identify each parcel shall be provided. If the property is tangible

1 personal property, a physical description of the property under protest
2 shall be provided. If the protest does not contain or have attached the
3 statement of the reason or reasons for the protest or the applicable
4 description of the property, the protest shall be dismissed by the county
5 board of equalization. The protest shall also indicate whether the person
6 signing the protest is an owner of the property or a person authorized to
7 protest on behalf of the owner. If the person signing the protest is a
8 person authorized to protest on behalf of the owner, such person shall
9 provide the authorization with the protest. If the person signing the
10 protest is not an owner of the property or a person authorized to protest
11 on behalf of the owner, the county clerk shall mail a copy of the protest
12 to the owner of the property at the address to which the property tax
13 statements are mailed.

14 (3) Beginning January 1, 2014, in counties with a population of at
15 least one hundred fifty thousand inhabitants according to the most recent
16 federal decennial census, for a protest regarding real property, each
17 protester shall be afforded the opportunity to meet in person with the
18 county board of equalization or a referee appointed under section
19 77-1502.01 to provide information relevant to the protested property
20 value.

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

24 (5) For agricultural land and horticultural land, the county board
25 of equalization may only correct errors in those characteristics
26 affecting the productivity use of such land. Protests of such
27 characteristics shall be made on a form prescribed by the Tax
28 Commissioner.

29 (6) ~~(5)~~ The county clerk or county assessor shall prepare a separate
30 report on each protest. The report shall include (a) a description
31 adequate to identify the real property or a physical description of the

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

21 (7) ~~(6)~~ On or before August 2, or on or before August 18 in a county
22 that has adopted a resolution to extend the deadline for hearing
23 protests, the county clerk shall mail to the protester written notice of
24 the board's decision. The notice shall contain a statement advising the
25 protester that a report of the board's decision is available at the
26 county clerk's or county assessor's office, whichever is appropriate. If
27 the protester is not an owner of the property involved in the protest or
28 a person authorized to protest on behalf of the owner, the county clerk
29 shall also mail written notice of the board's decision to the owner of
30 such property at the address to which the property tax statements are
31 mailed.

1 Sec. 12. Section 77-1507.01, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 77-1507.01 Any person otherwise having a right to appeal may
4 petition the Tax Equalization and Review Commission in accordance with
5 section 77-5013, on or before December 31 of each year, to determine the
6 actual value, agricultural productivity value, or special value of real
7 property for that year if a failure to give notice prevented timely
8 filing of a protest or appeal provided for in sections 77-1501 to
9 77-1510.

10 Sec. 13. Section 77-5022, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 77-5022 The commission shall annually equalize the assessed value ~~or~~
13 ~~special value~~ of all residential and commercial real property as
14 submitted by the county assessors on the abstracts of assessments and
15 equalize the values of real property that is valued by the state. The
16 commission shall have the power to recess from time to time until the
17 equalization process is complete. Meetings held pursuant to this section
18 may be held by means of videoconference or telephone conference.

19 Sec. 14. Section 77-5023, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 77-5023 (1) Pursuant to section 77-5022, the commission shall have
22 the power to increase or decrease the value of a class or subclass of
23 residential or commercial real property in any county or taxing authority
24 or of real property valued by the state so that all classes or subclasses
25 of such real property in all counties fall within an acceptable range.

26 (2) An acceptable range is the percentage of variation from a
27 standard for valuation as measured by an established indicator of central
28 tendency of assessment. The acceptable range for residential and
29 commercial ~~Acceptable ranges are: (a) For agricultural land and~~
30 ~~horticultural land as defined in section 77-1359, sixty-nine to seventy-~~
31 ~~five percent of actual value; (b) for lands receiving special valuation,~~

1 ~~sixty-nine to seventy-five percent of special valuation as defined in~~
2 ~~section 77-1343; and (c) for all other real property, is ninety-two to~~
3 one hundred percent of actual value.

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

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

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

14 Sec. 15. Section 77-6203, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 77-6203 (1) The owner of a renewable energy generation facility
17 annually shall pay a nameplate capacity tax equal to the total nameplate
18 capacity of the commissioned renewable energy generation facility
19 multiplied by a tax rate of three thousand five hundred eighteen dollars
20 per megawatt.

21 (2) No tax shall be imposed on a renewable energy generation
22 facility:

23 (a) Owned or operated by the federal government, the State of
24 Nebraska, a public power district, a public power and irrigation
25 district, an individual municipality, a registered group of
26 municipalities, an electric membership association, or a cooperative; or

27 (b) That is a customer-generator as defined in section 70-2002.

28 (3) No tax levied pursuant to this section shall be construed to
29 constitute restricted funds as defined in section 13-518 for the first
30 five years after the renewable energy generation facility is
31 commissioned.

1 (4) The presence of one or more renewable energy generation
2 facilities or supporting infrastructure shall not be a factor in the
3 assessment, determination of actual value or agricultural productivity
4 value, or classification under section 77-201 of the real property
5 underlying or adjacent to such facilities or infrastructure.

6 (5)(a) The Department of Revenue shall collect the tax due under
7 this section.

8 (b) The tax shall be imposed beginning the first calendar year the
9 renewable energy generation facility is commissioned. A renewable energy
10 generation facility that uses wind as the fuel source which was
11 commissioned prior to July 15, 2010, shall be subject to the tax levied
12 pursuant to sections 77-6201 to 77-6204 on and after January 1, 2010. The
13 amount of property tax on depreciable tangible personal property
14 previously paid on a renewable energy generation facility that uses wind
15 as the fuel source which was commissioned prior to July 15, 2010, which
16 is greater than the amount that would have been paid pursuant to sections
17 77-6201 to 77-6204 from the date of commissioning until January 1, 2010,
18 shall be credited against any tax due under Chapter 77, and any amount so
19 credited that is unused in any tax year shall be carried over to
20 subsequent tax years until fully utilized.

21 (c)(i) The tax for the first calendar year shall be prorated based
22 upon the number of days remaining in the calendar year after the
23 renewable energy generation facility is commissioned.

24 (ii) In the first year in which a renewable energy generation
25 facility is taxed or in any year in which additional commissioned
26 nameplate capacity is added to a renewable energy generation facility,
27 the taxes on the initial or additional nameplate capacity shall be
28 prorated for the number of days remaining in the calendar year.

29 (iii) When a renewable energy generation facility is decommissioned
30 or made nonoperational by a change in law during a tax year, the taxes
31 shall be prorated for the number of days during which the renewable

1 energy generation facility was not decommissioned or was operational.

2 (iv) When the capacity of a renewable energy generation facility to
3 produce electricity is reduced but the renewable energy generation
4 facility is not decommissioned, the nameplate capacity of the renewable
5 energy generation facility is deemed to be unchanged.

6 (6)(a) On March 1 of each year, the owner of a renewable energy
7 generation facility shall file with the Department of Revenue a report on
8 the nameplate capacity of the facility for the previous year from January
9 1 through December 31. All taxes shall be due on April 1 and shall be
10 delinquent if not paid on a quarterly basis on April 1 and each quarter
11 thereafter. Delinquent quarterly payments shall draw interest at the rate
12 provided for in section 45-104.02, as such rate may from time to time be
13 adjusted.

14 (b) The owner of a renewable energy generation facility is liable
15 for the taxes under this section with respect to the facility, whether or
16 not the owner of the facility is the owner of the land on which the
17 facility is situated.

18 (7) Failure to file a report required by subsection (6) of this
19 section, filing such report late, failure to pay taxes due, or
20 underpayment of such taxes shall result in a penalty of five percent of
21 the amount due being imposed for each quarter the report is overdue or
22 the payment is delinquent, except that the penalty shall not exceed ten
23 thousand dollars.

24 (8) The Department of Revenue shall enforce the provisions of this
25 section. The department shall adopt and promulgate rules and regulations
26 necessary for the implementation and enforcement of this section.

27 (9) The Department of Revenue shall separately identify the proceeds
28 from the tax imposed by this section and shall pay all such proceeds over
29 to the county treasurer of the county where the renewable energy
30 generation facility is located within thirty days after receipt of such
31 proceeds.

1 Sec. 16. Section 79-1016, Revised Statutes Cumulative Supplement,
2 2018, is amended to read:

3 79-1016 (1) On or before August 20, the county assessor shall
4 certify to the Property Tax Administrator the total taxable value by
5 school district in the county for the current assessment year on forms
6 prescribed by the Tax Commissioner. The county assessor may amend the
7 filing for changes made to the taxable valuation of the school district
8 in the county if corrections or errors on the original certification are
9 discovered. Amendments shall be certified to the Property Tax
10 Administrator on or before August 31.

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

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

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

3 (b) For agricultural and horticultural land, including any land
4 receiving special valuation pursuant to section 77-1344, the agricultural
5 productivity value as defined in section 77-1359 ~~seventy-two percent of~~
6 ~~actual value as provided in sections 77-1359 to 77-1363. For agricultural~~
7 ~~and horticultural land that receives special valuation pursuant to~~
8 ~~section 77-1344, seventy-two percent of special valuation as defined in~~
9 ~~section 77-1343; and~~

10 (c) For personal property, the net book value as defined in section
11 77-120.

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

28 (5) On or before November 10, any local system or county official
29 may file with the Tax Commissioner a written request for a nonappealable
30 correction of the adjusted valuation due to clerical error as defined in
31 section 77-128 or, for agricultural and horticultural land, assessed

1 value changes by reason of land qualified or disqualified for special use
2 valuation pursuant to sections 77-1343 to 77-1347.01. On or before the
3 following January 1, the Tax Commissioner shall approve or deny the
4 request and, if approved, certify the corrected adjusted valuations
5 resulting from such action to the State Department of Education.

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

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

24 (8) A school district whose state aid is to be calculated pursuant
25 to subsection (5) of this section and whose state aid payment is
26 postponed as a result of failure to calculate state aid pursuant to such
27 subsection may apply to the state board for lump-sum payment of such
28 postponed state aid. Such application may be for any amount up to one
29 hundred percent of the postponed state aid. The state board may grant the
30 entire amount applied for or any portion of such amount. The state board
31 shall notify the Director of Administrative Services of the amount of

1 funds to be paid in a lump sum and the reduced amount of the monthly
2 payments. The Director of Administrative Services shall, at the time of
3 the next state aid payment made pursuant to section 79-1022, draw a
4 warrant for the lump-sum amount from appropriated funds and forward such
5 warrant to the district.

6 Sec. 17. Section 79-1036, Revised Statutes Cumulative Supplement,
7 2018, is amended to read:

8 79-1036 (1) In making the apportionment under section 79-1035, the
9 Commissioner of Education shall distribute from the school fund for
10 school purposes to (a) for school fiscal years prior to school fiscal
11 year 2017-18, any and all learning communities and school districts which
12 are not members of a learning community, and (b) for school fiscal year
13 2017-18 and each school fiscal year thereafter, all school districts in
14 which there are situated school lands which have not been sold and
15 transferred by deed or saline lands owned by the state, which lands are
16 being used for a public purpose, an amount in lieu of tax money that
17 would be raised by school district levies if such lands were taxable, to
18 be ascertained in accordance with subsection (2) of this section.

19 (2) The county assessor shall certify to the Commissioner of
20 Education the tax levies of each school district and, for levies
21 certified prior to January 1, 2017, learning community in which school
22 land or saline land is located and the last appraised value of such
23 school land, which value shall be the land's agricultural productivity
24 value as defined in section 77-1359 ~~same percentage of the appraised~~
25 ~~value as the percentage of the assessed value is of market value in~~
26 ~~subsection (2) of section 77-201~~ for the purpose of applying the
27 applicable tax levies for each district and, for levies certified prior
28 to January 1, 2017, learning community in determining the distribution to
29 the districts of such amounts. The school board of any school district
30 and, for levies certified prior to January 1, 2017, the learning
31 community coordinating council of any learning community in which there

1 is located any leased or undeeded school land or saline land subject to
2 this section may appeal to the Board of Educational Lands and Funds for a
3 reappraisalment of such school land if such school board or learning
4 community coordinating council deems the land not appraised in proportion
5 to the value of adjoining land of the same or similar value. The Board of
6 Educational Lands and Funds shall proceed to investigate the facts
7 involved in such appeal and, if the contention of the school board or
8 learning community coordinating council is correct, make the proper
9 reappraisalment. The value calculation in this subsection shall be used by
10 the Commissioner of Education for making distributions in each school
11 fiscal year.

12 Sec. 18. Sections 1, 2, 3, 4, 5, 10, 11, 12, 13, 14, 15, 16, 17,
13 19, and 20 of this act become operative on January 1, 2020. The other
14 sections of this act become operative on their effective date.

15 Sec. 19. Original sections 46-294.03, 77-103.01, 77-201, 77-1343,
16 77-1359, 77-1371, 77-1502, 77-1507.01, 77-5022, 77-5023, and 77-6203,
17 Reissue Revised Statutes of Nebraska, and sections 79-1016 and 79-1036,
18 Revised Statutes Cumulative Supplement, 2018, are repealed.

19 Sec. 20. The following section is outright repealed: Section
20 77-1363, Reissue Revised Statutes of Nebraska.

21 Sec. 21. Since an emergency exists, this act takes effect when
22 passed and approved according to law.