

LEGISLATIVE BILL 170

Approved by the Governor April 4, 2001

Introduced by Revenue Committee: Wickersham, 49, Chairperson; Coordsen, 32; Dierks, 40; Hartnett, 45; Janssen, 15; Raikes, 25; Redfield, 12; Landis, 46

AN ACT relating to revenue and taxation; to amend sections 49-1201 and 77-1377, Reissue Revised Statutes of Nebraska, and sections 77-101, 77-1311, 77-1315, 77-1327, 77-1342, 77-1343, 77-1344, 77-1347, 77-1355, 77-1361 to 77-1363, 77-1371, 77-1510, 77-5004, 77-5007, 77-5013, 77-5016, 77-5023, 77-5024, 77-5026 to 77-5028, and 79-1016, Revised Statutes Supplement, 2000; to change provisions relating to property tax assessment and valuation; to define a term; to provide and change powers and duties; to change qualifications for members of the Tax Equalization and Review Commission; to change procedures relating to appeals to the commission; to eliminate provisions relating to taxation of irrigation works and formal equalization plans; to harmonize provisions; to repeal the original sections; to outright repeal section 46-267, Reissue Revised Statutes of Nebraska, and sections 77-1372 and 77-5012, Revised Statutes Supplement, 2000; and to declare an emergency.

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

Section 1. Section 49-1201, Reissue Revised Statutes of Nebraska, is amended to read:

49-1201. Any report, claim, tax return, tax valuation, equalization, or exemption protest, or tax form, petition, appeal, or statement, or any payment required or authorized to be filed or made to the State of Nebraska, or to any political subdivision thereof, which is: (1) Transmitted through the United States mail; (2) mailed but not received by the state or political subdivision; or (3) received and the cancellation mark is illegible, erroneous, or omitted shall be deemed filed or made and received on the date it was mailed if the sender establishes by competent evidence that the report, claim, tax return, tax valuation, equalization, or exemption protest, or tax form, petition, appeal, or statement, or payment was deposited in the United States mail on or before the date for filing or paying.

Sec. 2. Section 77-101, Revised Statutes Supplement, 2000, is amended to read:

77-101. For purposes of Chapter 77 and any statutes dealing with taxation, unless the context otherwise requires, the definitions found in sections 77-102 to 77-130 and section 3 of this act shall be used.

Sec. 3. 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 or horticultural land listed in section 77-1363, parcel use, parcel type, location, geographic characteristics, zoning, city size, parcel size, 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. 4. The Department of Property Assessment and Taxation shall publish an annual report detailing property tax valuations, taxes levied, and property tax rates throughout the state. The annual report shall display information by political subdivision and by property type within each county and also include statewide summarizations. The department may charge a fee for copies of the annual report. The Property Tax Administrator shall set the fee, based on the reasonable cost of production.

Sec. 5. Section 77-1311, Revised Statutes Supplement, 2000, is amended to read:

77-1311. The county assessor shall have general supervision over and direction of the assessment of all property in his or her county. In addition to the other duties provided by law, the county assessor shall:

(1) Annually revise the real property assessment for the correction of errors and, when properties have been assessed as entities and afterward part or parts transferred to other parties, set off and apportion to each its just and equitable portion of the valuation;

(2) Obey all rules and regulations made under Chapter 77 and the

instructions and orders sent out by the Property Tax Administrator and the Tax Equalization and Review Commission;

(3) Examine the records in the office of the register of deeds and county clerk for the purpose of ascertaining whether mortgages on real property and security interests on personal property, producing mineral leases, title notes, contracts, and bills of sale, intended to operate as a lien in the county, have been fully and correctly listed and add to the assessment roll any which have been omitted, belonging to residents of his or her county, and not otherwise assessed, upon notice to the owner thereof or his or her agents;

(4) Examine the records in the office of the county judge and ascertain whether the property belonging to minors, persons with mental retardation or a mental disorder, and estates of deceased persons has been fully and correctly listed and add to or change any such assessments so that the same shall be fully assessed;

(5) Examine the records in the office of the clerk of the district court to ascertain whether any judgments or liens thereon filed, belonging to residents of his or her county and not otherwise assessed, have been omitted from the assessment rolls and, in case of any such omission, add the same to the assessment roll after notice to the owner;

(6) Make up the assessment roll as provided in section 77-1303; and

(7) Provide access to the public to property record cards and allow facsimiles to be reproduced at cost to the requesting individual; and

(8) Submit a plan of assessment to the county board of equalization and the Department of Property Assessment and Taxation on or before September 1, 2001, and every five years thereafter. The county assessor shall update the plan each year between the adoption of each five-year plan. The plan and any update shall examine the level, quality, and uniformity of assessment in the county and may utilize a progress report developed by the department and presented to the county assessor on or before July 31. The progress report is to be based on reports and statistics developed by class and subclass of real property for each county. The plan of assessment shall address issues of level, quality, and uniformity of assessment, including those outlined in the progress report, and shall propose actions to be taken for the following years to assure uniform and proportionate assessments that are within the statutory and administrative guidelines for the level and quality of assessment.

Sec. 6. Section 77-1315, Revised Statutes Supplement, 2000, is amended to read:

77-1315. (1) The county assessor shall, after March 20 and on or before June 1, implement adjustments to the real property assessment roll for actions of the agricultural and horticultural land valuation board and the Tax Equalization and Review Commission.

(2) On or before June 1, the county assessor shall notify the record owner of every item of real property which has been assessed at a value different than in the previous year. Such notice shall be given by first-class mail addressed to such owner's last-known address. It shall identify the item of real property and state the old and new valuation, the date of convening of the county board of equalization, the dates for filing a protest, and the average level of value of all classes and subclasses of real property in the county as determined by the Tax Equalization and Review Commission.

(3) Immediately upon completion of the assessment roll, the county assessor or county clerk shall cause to be published in a newspaper of general circulation in the county a certification that the assessment roll is complete and notices of valuation changes have been mailed and provide the final date for filing valuation protests with the county board of equalization.

(4) The county assessor shall annually, on or before June 6, post in his or her office and, as designated by the county board, mail to a newspaper of general circulation and to licensed broadcast media in the county the assessment ratios as found in his or her county as determined by the Tax Equalization and Review Commission and any other statistical measures, including, but not limited to, the assessment-to-sales ratio, the coefficient of dispersion, and the price-related differential.

Sec. 7. Section 77-1327, Revised Statutes Supplement, 2000, 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 taxpayer taxing officials and property owners in order to ensure the quality and uniformity of assessment practices on both intercounty and intracounty valuations uniformity and proportionality of the assessments of real property valuations in the state in accordance with law.

(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 one dollar and seventy-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 Property Assessment and Taxation 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 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. in the state. In order to determine the degree of assessment uniformity and compliance in the assessment of major classes of property within each county, the Property Tax Administrator shall compute measures of central tendency and dispersion and shall employ such standard statistical analysis as deemed appropriate by him or her.

~~(3)~~ (4) The Property Tax Administrator may require assessors and other local officers taxing officials to report to him or her data on taxable valuations the assessed valuation and other features of the property tax assessment for such periods and in such form and content as the Property Tax Administrator shall require deem appropriate. The Property Tax Administrator shall so construct and maintain his or her the system for the collection and analysis of property tax facts as used to collect and analyze the data to enable him or her to make intracounty comparisons of assessed valuation, including school districts, as well as intercounty comparisons of assessed valuation, including school districts. 7 based on property tax and assessment ratio data. The Property Tax Administrator shall include analysis of real estate property sales pursuant to land contracts and similar transfers at the time of execution of the contract or similar transfer. The Department of Property Assessment and Taxation shall assist those county officials who require supplemental information to perform the duties necessary to carry out this section. The information requested may include, but shall not be limited to, sample appraisals, statistical analyses, arm's-length sales transactions, or any other information necessary to complete such analysis.

(4) The Property Tax Administrator shall verify the accuracy of information, including the selection of form 521 comparable sales, if any, that are not arm's-length transactions.

(5) The Property Tax Administrator shall annually publish a summary of the findings of the assessment ratio studies together with digests of property tax data.

(6) The county assessor shall annually, within five days after certifying the assessment rolls pursuant to section 77-1315, post in his or her office and, as designated by the county board, mail to a newspaper of general circulation and to licensed broadcast media in the county the assessment ratios as found in his or her county as determined by the Property Tax Administrator and any other statistical measures, including, but not limited to, the assessment-to-sales ratio, the coefficient of dispersion, and the price-related differential.

Sec. 8. Section 77-1342, Revised Statutes Supplement, 2000, is amended to read:

77-1342. There is hereby created a fund to be known as the Department of Property Assessment and Taxation Cash Fund to which shall be credited all money received by the Department of Property Assessment and Taxation for services performed for county and multicounty assessment districts, for charges for publications, manuals, and lists, as an assessor's examination fee authorized by section 77-421, and under the provisions of sections 60-305.15, 77-684, and 77-1250. The fund shall be used to develop ~~fee schedules and tables~~ and assessment manuals, including the manual required by section 77-1362, and distribute them to the counties, to implement sections

77-415 and 77-420, to develop programs or models to improve the assessment of taxable property, to institute a program for land record modernization, and to engage competent counsel. The county or multicounty assessment district shall be billed by the department for services rendered. Reimbursements to the department shall be credited to the fund, and expenditures therefrom shall be made only when such funds are available. The department shall only bill for the actual amount expended in performing the service.

The fund shall not, at the close of each year, be lapsed to the General Fund. ~~Any money in the Property Tax Division Cash Fund on July 17, 1999, shall be transferred to the Department of Property Assessment and Taxation Cash Fund.~~ Any money in the Department of Property Assessment and Taxation Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 9. Section 77-1343, Revised Statutes Supplement, 2000, is amended to read:

77-1343. The purpose of sections 77-1343 to 77-1348 is to provide a special valuation for qualified agricultural or horticultural land so that the current assessed valuation of the land for property tax purposes is the value that the land would have without regard to the value the land would have for other purposes or uses. For purposes of sections 77-1343 to 77-1348:

(1) Agricultural or horticultural land shall mean that land as defined in section 77-1359;

(2) Agricultural or horticultural use shall mean the use of land as defined in section 77-1359, so that incidental use of the land for nonagricultural or nonhorticultural purposes shall not disqualify the land;

(3) Owner shall mean an owner of agricultural or horticultural land who holds an estate in fee simple or for life, any one of tenants in common or joint tenants who hold an estate in fee simple or for life, or the purchaser of agricultural or horticultural land under a contract for sale;

(4) Recapture valuation shall mean eighty percent of the actual value of the land pursuant to section 77-112;

(5) Special valuation shall mean eighty percent of the value that the land would have for agricultural or horticultural purposes or uses without regard to the actual value the land would have for other purposes or uses; and

(6) ~~Subdivision shall mean the division of a parcel of land into two or more parcels, either of which is ten acres or less; and~~

(7) Zoned for agricultural or horticultural use shall mean 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 or horticultural 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 shall 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. 10. Section 77-1344, Revised Statutes Supplement, 2000, is amended to read:

77-1344. (1) Any land which has an actual value as defined in section 77-112 reflecting purposes or uses other than agricultural or horticultural use shall be assessed at its special valuation and not at its recapture value if the land meets the qualifications of this subsection and an application for such special valuation is made and approved pursuant to section 77-1345. In order for the land to qualify for special valuation all of the following criteria shall be met: (a) The land is located outside the corporate boundaries of any sanitary and improvement district, city, or village, (b) the land is used for agricultural or horticultural purposes, and (c) the land is zoned predominantly for agricultural or horticultural use. ~~7 and (d) the land is not subdivided.~~

(2) The special valuation provisions may be applicable to real property 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.

(3) The eligibility of land for the special valuation provisions of this section shall be determined as of January 1, but if land so qualified becomes disqualified prior to the levy date of the same year, it shall be valued and carried on the tax roll at its recapture value. ~~actual value as defined by section 77-112 without regard to this section.~~ If the land becomes

disqualified after the date of levy, its valuation for that year shall continue as provided in this section.

(4) The special valuation and recapture valuation placed on such land by the county assessor under this section shall be subject to equalization by the agricultural and horticultural land valuation board, the county board of equalization, and the Tax Equalization and Review Commission.

Sec. 11. Section 77-1347, Revised Statutes Supplement, 2000, is amended to read:

77-1347. Upon approval of an application, the county assessor shall value the land as provided in section 77-1344 until the land becomes disqualified for such valuation by:

(1) ~~Notification~~ Written notification by the owner to the assessor to remove such special valuation;

(2) Sale or transfer to an ownership making it exempt from property taxation;

(3) A change in zoning so that the land is no longer zoned predominantly for agricultural or horticultural use;

(4) ~~Subdivision of the land;~~

~~(5)~~ Except as provided in subsection (2) of section 77-1344, inclusion of the land within the corporate boundaries of any sanitary and improvement district, city, or village; or

~~(6)~~ (5) The land is no longer used for agricultural or horticultural purposes.

Sec. 12. Section 77-1355, Revised Statutes Supplement, 2000, is amended to read:

77-1355. (1) The Greenbelt Advisory Committee is established to assist and advise the Property Tax Administrator in developing uniform and proportionate special valuation of agricultural real property which is zoned for agricultural use and subject to land use controls provided for in sections 77-1343 to 77-1348. The advisory committee shall provide advice to the Property Tax Administrator and the Legislature on rules and regulations under section 77-1346 and methods and practices of state and local assessing officials for such special valuation. The Property Tax Administrator shall respond to the recommendations of the advisory committee and explain the basis for approval or rejection of recommendations.

(2) The advisory committee shall consist of the following members appointed by the Governor:

(a) Two active farmers;

(b) An active rancher;

(c) A real estate appraiser with expertise in the appraisal of agricultural real estate;

(d) A professor of agricultural economics at the University of Nebraska Institute of Agriculture and Natural Resources;

(e) An elected county assessor or a designee of the county assessor;

(f) A local planning and zoning official;

(g) An elected county official who has served or is serving on an agricultural and horticultural land valuation board; and

(h) A county attorney who has an understanding of appraisal processes and problems encountered in the valuation of real property.

The members shall serve for terms of four years, except that the Governor shall designate three of the initial members to serve for two-year terms. The members shall select a chairperson from the advisory committee's membership. The advisory committee shall meet at least once annually.

(3) The advisory committee shall develop recommendations on:

(a) When using comparable sales analysis for purposes of establishing the special valuation under sections 77-1343 to 77-1348, how such information may be gathered from other counties and locations within a county;

(b) When using an income capitalization approach for such special valuation, the income and expense information to be used and the appropriate method of gathering such information;

(c) When using the income capitalization approach, the approved methods of determining the capitalization rate, including methods of gathering valid comparable sales for purposes of determining the capitalization rate on comparable agricultural land and horticultural land; and

(d) Any further revisions to sections 77-1343 to 77-1348 as the committee deems important for uniform enforcement of such sections and uniform special valuation of agricultural real property.

(4) Methods and recommendations developed by the advisory committee shall provide for an annually updated analysis based on a three-year average of the information used. The advisory committee may develop recommendations for valuation methods which provide for special valuation of land used for specialized agricultural crop production which is unique or localized to a

specific area. The recommendations shall be provided by October 1 each year.

(5) The Property Tax Administrator shall provide administrative staff support and information as requested by the advisory committee so long as provision of staff support and information does not impair the ability of the Property Tax Administrator to carry out other statutory obligations.

(6) Members shall be reimbursed for actual and necessary expenses pursuant to sections 81-1174 to 81-1177.

Sec. 13. Section 77-1361, Revised Statutes Supplement, 2000, is amended to read:

77-1361. (1) Agricultural land and horticultural land used solely for agricultural or horticultural purposes shall constitute a separate and distinct class of property for purposes of property taxation. Agricultural land and horticultural land shall be classified using the agricultural land valuation manual issued by the Property Tax Administrator pursuant to section 77-1330 which shall be developed using the methods prescribed in section 77-1362.

(2) No residential, commercial, industrial, or agricultural building or enclosed structure or the directly associated land or site of the building or enclosed structure shall be assessed as agricultural land or horticultural land, except that beginning January 1, 2002, land currently in use as a farm site not currently occupied or used for any other nonagricultural or nonhorticultural purpose shall be valued at the same assessed value as the contiguous agricultural or horticultural land which is under the same ownership and is in use as agricultural or horticultural land.

Sec. 14. Section 77-1362, Revised Statutes Supplement, 2000, is amended to read:

77-1362. An agricultural land valuation manual shall be developed by the Property Tax Administrator which divides agricultural land and horticultural land into ~~categories~~ classes and such ~~categories~~ classes into subclasses based on soil classifications. The Property Tax Administrator may recognize geographic differences that exist within the county and issue separate values for a class or subclass of agricultural land and horticultural land for those distinct areas in the county.

Sec. 15. Section 77-1363, Revised Statutes Supplement, 2000, is amended to read:

77-1363. Agricultural land and horticultural land shall be divided into ~~categories~~ classes and subclasses of real property under section 3 of this act, 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. ~~Categories~~ Classes shall be ~~divided into~~ 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. Land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production shall be classified according to its taxable value as determined in subsection (2) of section 77-201. County assessors shall utilize and implement soil surveys in the tax year after the soil survey maps become available. County assessors shall utilize and implement soil classifications as converted into land valuation groups provided by the Property Tax Administrator. 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. 16. Section 77-1371, Revised Statutes Supplement, 2000, is amended to read:

77-1371. When using comparable sales in ~~any method of~~ 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 or horticultural land as defined in section 77-1359, whether a premium was paid to acquire nearby property. Land within one mile of currently owned property shall be considered nearby property;

(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 77-1348, whether the sale price reflects a value which the land has for purposes or uses other than as agricultural land or horticultural land and therefor does not reflect current market value of other agricultural land or horticultural land.

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 77-1377, Reissue Revised Statutes of Nebraska, is amended to read:

77-1377. The Property Tax Administrator shall create a statewide file ~~on~~ of real estate property sales to ~~compile data and provide~~ information regarding hard-to-assess property, including situations in which a local property may have few available comparable sales. The Property Tax Administrator shall make the file available to county assessors. ~~and county clerks performing the duties of county assessors.~~

Sec. 18. Section 77-1510, Revised Statutes Supplement, 2000, is amended to read:

77-1510. Appeals may be taken from any action of the county board of equalization to the Tax Equalization and Review Commission in accordance with the Tax Equalization and Review Commission Act. The appeal shall be filed or postmarked within thirty days after adjournment of the board which, for actions taken pursuant to section 77-1502, shall be deemed to be July 25 of the year in which the action is taken. After an appeal has been initiated, the county board of equalization shall have no power or authority to compromise, settle, or otherwise change the action it has taken with respect to such assessment, and exclusive jurisdiction thereof shall be vested in the Tax Equalization and Review Commission, except that the county board of equalization may offer to confess judgment pursuant to section 77-1510.01.

Sec. 19. Section 77-5004, Revised Statutes Supplement, 2000, is amended to read:

77-5004. (1) Each commissioner shall be a qualified voter, taxpayer, and resident of the state.

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

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

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

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

(d) Knowledge of the law relating to taxation in Nebraska;

(e) Any certification or training required ~~of Nebraska assessment officers~~ to become a registered real estate appraiser as set forth in section 76-2229.01. If a commissioner has not received such certification or training prior to his or her appointment, such certification or training shall be completed within one year after the appointment; and

(f) Such other qualifications and skills as reasonably may be

requisite for the effective and reliable performance of the commission's duties.

(3) The chairperson shall have been engaged in the practice of law in the State of Nebraska for at least five years, which may include prior service as a judge, and shall be currently admitted to practice before the Nebraska Supreme Court.

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

(5) During each year of his or her term, each commissioner shall attend a seminar or class of at least two ~~days~~ days' duration, sponsored by a recognized assessment or appraisal organization, in each of these areas: Utility and railroad appraisal; appraisal of complex industrial properties; and mass appraisal, residential or agricultural appraisal, or assessment administration.

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

(7) The commissioners shall be reimbursed as prescribed in sections 81-1174 to 81-1177 for their actual and necessary expenses in the performance of their official duties pursuant to the Tax Equalization and Review Commission Act. Mileage expenses incurred while traveling in the line of duty to and from a commissioner's primary residence to the commission office as well as living expenses for any commissioner whose residence is located more than eighty miles from the commission office shall be reimbursed by the state if:

(a) The commission has adopted and promulgated rules and regulations establishing guidelines for allowable reimbursement of mileage and living expenses, except that the reimbursement rate for mileage shall not exceed the rate established by the Department of Administrative Services pursuant to section 81-1176;

(b) The commissioner complies with the request procedures for reimbursement set forth in such guidelines; and

(c) The total amounts authorized for reimbursement of such mileage and living expenses in any fiscal year shall not cause the total expenses to exceed the total funds appropriated to the program established for commissioners' expenses.

Sec. 20. Section 77-5007, Revised Statutes Supplement, 2000, 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 Property Tax Administrator determining the taxable property of a railroad company, car company, public service entity, or air carrier within the state;

(4) Decisions of the Property Tax Administrator 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 ~~to~~ 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 60-3005;

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

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

(11) Any other decision of the Property Tax Administrator.

~~Any person appealing from a final decision under this section shall file the appeal with the commission within thirty days after the date of the decision appealed from.~~

Sec. 21. Section 77-5013, Revised Statutes Supplement, 2000, is

amended to read:

77-5013. (1) Any person appealing from a final decision under section 77-1510 or 77-5007 shall timely file the appeal with the commission. For purposes of this section, an appeal shall be deemed to be timely filed if the appeal is postmarked or received within thirty days after the date the final decision was rendered.

(2) An appeal shall be perfected and the commission shall obtain jurisdiction when:

(a) The appeal is filed on a form provided by the commission;

(b) A filing fee of twenty-five dollars is paid, except that no filing fee shall be required for a county assessor filing in his or her official capacity; and

(c) A copy of the final decision or other information that documents such final decision is filed.

(3) Except as provided in this section, no other requirement shall be deemed jurisdictional. The person filing an appeal with the commission shall pay a filing fee of twenty-five dollars, except that there shall be no filing fee for a county assessor filing in his or her official capacity.

Sec. 22. Section 77-5016, Revised Statutes Supplement, 2000, is amended to read:

77-5016. All cases appealed to the commission shall be granted an informal hearing unless a formal hearing is granted as determined by the commission according to its rules and regulations. In cases appealed to the commission:

(1) The commission may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. It shall give effect to the rules of privilege recognized by law. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Any party to an appeal filed under section 77-5007 may request a formal hearing by delivering a written request to the commission not more than thirty days after the appeal is filed. The request shall include the requesting party's agreement to be liable for the payment of costs incurred and upon any appeal or review, including the cost of court reporting services which the requesting party shall procure for the hearing. The commission shall be bound by the rules of evidence applicable in district court in any formal hearing held by the commission. All costs of a formal hearing shall be paid by the party or parties against whom a final decision is rendered;

(2) The commission may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, statistical analysis, and testimony, and cause the depositions of witnesses residing either within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions in the district court;

(3) All evidence including records and documents in the possession of the commission of which it desires to avail itself shall be offered and made a part of the record in the case. No other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference;

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

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

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

(7) The commission shall hear appeals and cross appeals taken under section 77-5007 as in equity and without a jury and determine de novo all questions raised before the county board of equalization or the Property Tax Administrator which relate to the liability of the property to assessment or the amount thereof. The commission shall affirm the action taken by the board

or Property Tax Administrator unless evidence is adduced establishing that the action of the board or the Property Tax Administrator was unreasonable or arbitrary. Any decision rendered by the commission shall be certified to the parties and, if applicable, to the county treasurer and the official charged with the duty of preparing the tax list. When such decision becomes final, any officials shall correct their records accordingly.

Sec. 23. Section 77-5023, Revised Statutes Supplement, 2000, 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 of any county or tax district or real property valued by the state so that all classes or subclasses of real property in all counties fall within the acceptable range.

(2) Such increase or decrease shall be made by a percentage and shall result in ~~an average level~~ the established indicator of central tendency of assessment for the class or subclass of real property adjusted at (a) seventy-seven percent of actual value for agricultural and horticultural land, (b) beginning January 1, 2001, ninety-six percent of special or recapture value for agricultural and horticultural land that receives special valuation pursuant to section 77-1344, and (c) ninety-six percent of actual value for nonagricultural and nonhorticultural real property. If such increase or decrease is made to a subclass of real property, the increase or decrease shall also cause the ~~average level established indicator of central tendency~~ of assessment for the class from which the subclass is drawn to fall within the acceptable range. This subsection shall become operative for all actions filed with the commission on or after April 7, 2000.

(3) For agricultural and horticultural land, the acceptable range shall be from seventy-four percent to eighty percent of actual value of agricultural and horticultural land; beginning January 1, 2001, for agricultural and horticultural land eligible for special valuation under section 77-1344, the acceptable range shall be from ninety-two percent to one hundred percent of the special valuation, and the recapture valuation shall be between ninety-two to one hundred percent of the recapture value; and for nonagricultural and nonhorticultural real property, the acceptable range shall be from ninety-two percent to one hundred percent of actual value of nonagricultural and nonhorticultural real property.

Sec. 24. Section 77-5024, Revised Statutes Supplement, 2000, is amended to read:

77-5024. The commission shall have the authority to conduct a hearing to review any changes made by the agricultural and horticultural land valuation board in values of agricultural and horticultural land in any county within the board's jurisdiction. At least five days' notice shall be given to the appropriate county clerk, appropriate county assessor, chairperson of the appropriate county board, and the chairperson of the agricultural and horticultural land valuation board. At the hearing, the legal representatives of the appropriate county or the legal representative of the agricultural and horticultural land valuation board may appear and show cause why the value of the property of the county should not be corrected or adjusted. At the hearing, the commission may receive testimony from any interested person.

Sec. 25. Section 77-5026, Revised Statutes Supplement, 2000, is amended to read:

77-5026. Pursuant to section 77-5023, if the commission finds that ~~a just, equitable, and legal assessment of the property in the state cannot be made without increasing or decreasing by a percentage the value of a class or subclass of property as returned by any county~~ the level of assessment of a class or subclass of real property fails to satisfy the requirements of section 77-5023, the commission shall issue a notice to the counties which it deems either undervalued or overvalued and shall set a date for hearing at least five days following the mailing of the notice. The notice shall be mailed to the county clerk, county assessor, and chairperson of the county board. At the hearing the legal representatives of the county may appear and show cause why the value of a class or subclass of ~~the real~~ real property of the county should not be adjusted. At the hearing, the commission may receive testimony from any interested person.

Sec. 26. Section 77-5027, Revised Statutes Supplement, 2000, is amended to read:

77-5027. The commission shall, pursuant to section 77-5026, raise or lower the valuation of any class or subclass of real property in a county when it is necessary to achieve equalization. On or before April 15 for 1997 and on or before April 5 for 1998 and each year thereafter, the Property Tax Administrator shall prepare statistical and narrative reports informing the commission of the level of value and the quality of assessment of the classes

and subclasses of real property in the state and certify his or her opinion regarding the level of value and quality of assessment in each county. On or before April 15 for 1997 and on or before April 5 for 1998 and each year thereafter, the Property Tax Administrator shall certify his or her opinion regarding the level of value and quality of assessment of the county to each county assessor. For the purposes of informing the commission, the Property Tax Administrator shall employ the methods specified in section 77-112, the sales-assessment ratio study, other statistical studies, and studies of the assessment practices of a county. The Property Tax Administrator may employ transfers of comparable real property in market areas similar to the area in question as indicators of the level of value and the quality of assessment in a county. The Property Tax Administrator may use any other relevant matter in providing information to the commission.

Sec. 27. Section 77-5028, Revised Statutes Supplement, 2000, is amended to read:

77-5028. After a hearing conducted pursuant to section 77-5024 or 77-5026, the commission shall enter its order based on information presented to it at the hearing. The order of the commission shall be sent by certified mail to the county assessor and by regular mail to the county clerk and chairperson of the county board on or before May 15 of each year. The order shall specify the percentage increase or decrease and the class or subclass of real property affected or the corrections or adjustments to be made to the class or subclass of real property affected. The specified changes shall be made by the county assessor to each item of real property in the county so affected.

Sec. 28. Section 79-1016, Revised Statutes Supplement, 2000, 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 Property Tax Administrator. 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 (2) of this section. The Property Tax Administrator shall also 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 assessment practices established by rule and regulation adopted and promulgated by the Property Tax Administrator. The assessment practices may include, but not be limited to, the appraisal methods listed in section 77-112.

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

(a) For real property other than agricultural and horticultural land, one hundred percent of market value;

(b) For agricultural and horticultural land, eighty percent of market value as provided in sections 77-1359 to 77-1363. For agricultural and horticultural land that receives special valuation pursuant to section 77-1344, one hundred 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.

(3) On or before November 10, any local system may file with the Property Tax Administrator 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 (2) of this section. The Property Tax Administrator 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 Property Tax Administrator shall enter an 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 Property Tax Administrator 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. The final determination of the Property Tax Administrator may be appealed to the Tax Equalization and Review Commission in accordance with the Tax Equalization and Review Commission Act.

(4) On or before November 10, any local system or county official may file with the Property Tax Administrator a written request for a

nonappealable correction of the adjusted valuation due to clerical error 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 77-1348. For purposes of this subsection, clerical error means transposition of numbers, allocation of value to the wrong school district, mathematical error, and omitted value. On or before the following January 1, the Property Tax Administrator shall approve or deny the request and, if approved, certify the corrected adjusted valuations resulting from such action to the State Department of Education.

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

(6) A school district whose state aid is to be calculated pursuant to subsection (4) 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. 29. Original sections 49-1201 and 77-1377, Reissue Revised Statutes of Nebraska, and sections 77-101, 77-1311, 77-1315, 77-1327, 77-1342, 77-1343, 77-1344, 77-1347, 77-1355, 77-1361 to 77-1363, 77-1371, 77-1510, 77-5004, 77-5007, 77-5013, 77-5016, 77-5023, 77-5024, 77-5026 to 77-5028, and 79-1016, Revised Statutes Supplement, 2000, are repealed.

Sec. 30. The following sections are outright repealed: Section 46-267, Reissue Revised Statutes of Nebraska, and sections 77-1372 and 77-5012, Revised Statutes Supplement, 2000.

Sec. 31. Since an emergency exists, this act takes effect when passed and approved according to law.