

LEGISLATURE OF NEBRASKA  
 ONE HUNDREDTH LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 166**

Introduced By: Revenue Committee; Janssen, 15, Chairperson; Burling, 33;  
 Cornett, 45; Dierks, 40; Langemeier, 23; Raikes, 25

Read first time: January 8, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
 2 77-1233.04 and 77-1613.02, Reissue Revised Statutes of  
 3 Nebraska, and sections 77-202.03, 77-1344, 77-1347.01,  
 4 77-1348, 77-1502, and 77-5018, Revised Statutes Cumulative  
 5 Supplement, 2006; to change and eliminate provisions  
 6 relating to property taxation and assessment; to repeal the  
 7 original sections; to outright repeal section 77-1216,  
 8 Reissue Revised Statutes of Nebraska; and to declare an  
 9 emergency.

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

1           Section 1. Section 77-202.03, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           77-202.03. (1) A properly granted exemption of real or  
4 tangible personal property, except real property used for cemetery  
5 purposes, provided for in subdivisions (1)(c) and (d) of section  
6 77-202 shall continue for a period of four years if the statement of  
7 reaffirmation of exemption required by subsection (2) of this section  
8 is filed when due. The four-year period shall begin with years evenly  
9 divisible by four.

10           (2) In each intervening year occurring between application  
11 years, the organization or society which filed the granted exemption  
12 application for the real or tangible personal property, except real  
13 property used for cemetery purposes, shall file a statement of  
14 reaffirmation of exemption with the county assessor on or before  
15 December 31 of the year preceding the year for which the exemption is  
16 sought, on forms prescribed by the Property Tax Administrator,  
17 certifying that the ownership and use of the exempted property has not  
18 changed during the year. Any organization or society which misses the  
19 December 31 deadline for filing the statement of reaffirmation of  
20 exemption may file the statement of reaffirmation of exemption by June  
21 30. Such filing shall maintain the tax-exempt status of the property  
22 without further action by the county and regardless of any previous  
23 action by the county board of equalization to deny the exemption due  
24 to late filing of the statement of reaffirmation of exemption. Upon  
25 any such late filing, the county assessor shall assess a penalty  
26 against the property of ten percent of the tax that would have been  
27 assessed had the statement of reaffirmation of exemption not been

1 filed or one hundred dollars, whichever is less, for each calendar  
2 month or fraction thereof for which the filing of the statement of  
3 reaffirmation of exemption is late. The penalty shall be collected and  
4 distributed in the same manner as a tax on the property and interest  
5 shall be assessed at the rate specified in section 45-104.01, as such  
6 rate may from time to time be adjusted by the Legislature, from the  
7 date the tax would have been delinquent until paid. The penalty shall  
8 also become a lien in the same manner as a tax pursuant to section  
9 77-203.

10 (3)(a) If any organization or society seeks a tax exemption  
11 for any real or tangible personal property acquired on or after  
12 January 1 of any year or converted to exempt use on or after January 1  
13 of any year, the organization or society shall make application for  
14 exemption on or before August 1 of that year as provided in subsection  
15 (1) of section 77-202.01. The procedure for reviewing the application  
16 shall be as in sections 77-202.01 to 77-202.05, except that the exempt  
17 use shall be determined as of the date of application and the review  
18 by the county board of equalization shall be completed by August 15.

19 (b) If an organization as described in subdivision (1)(c) or  
20 (d) of section 77-202 purchases, between August 1 and the levy date,  
21 property that has been granted tax exemption and the property  
22 continues to be qualified for a property tax exemption, the purchaser  
23 shall on or before ~~December 1~~ November 15 make application for  
24 exemption as provided in section 77-202.01. The procedure for  
25 reviewing the application shall be as in sections 77-202.01 to  
26 77-202.05, and the review by the county board of equalization shall be  
27 completed by December 15.

1           (4) In any year, the county assessor or the county board of  
2 equalization may cause a review of any exemption to determine whether  
3 the exemption is proper. Such a review may be taken even if the  
4 ownership or use of the property has not changed from the date of the  
5 allowance of the exemption. If it is determined that a change in an  
6 exemption is warranted, the procedure for hearing set out in section  
7 77-202.02 shall be followed, except that the published notice shall  
8 state that the list provided in the county assessor's office only  
9 includes those properties being reviewed. If an exemption is denied,  
10 the county board of equalization shall place the property on the tax  
11 rolls retroactive to January 1 of that year if on the date of the  
12 decision of the county board of equalization the property no longer  
13 qualifies for an exemption.

14           The county board of equalization shall give notice of the  
15 assessed value of the real property in the same manner as outlined in  
16 section 77-1507, and the procedures for filing a protest shall be the  
17 same as those in section 77-1502.

18           When personal property which was exempt becomes taxable  
19 because of lost exemption status, the owner or his or her agent has  
20 thirty days after the date of denial to file a personal property  
21 return with the county assessor. Upon the expiration of the thirty  
22 days for filing a personal property return pursuant to this  
23 subsection, the county assessor shall proceed to list and value the  
24 personal property and apply the penalty pursuant to section  
25 77-1233.04.

26           (5) During the month of September of each year, the county  
27 board of equalization shall cause to be published in a paper of

1 general circulation in the county a list of all real estate in the  
2 county exempt from taxation for that year pursuant to subdivisions  
3 (1)(c) and (d) of section 77-202. Such list shall be grouped into  
4 categories as provided by the Property Tax Administrator. A copy of  
5 the list and proof of publication shall be forwarded to the Property  
6 Tax Administrator.

7 Sec. 2. Section 77-1233.04, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 77-1233.04. (1) The county assessor shall list and value at  
10 net book value any item of tangible personal property omitted from a  
11 personal property return of any taxpayer. The county assessor shall  
12 ~~and~~ change the reported valuation of any item of tangible personal  
13 property listed on the return to conform the valuation to net book  
14 value. If a taxpayer fails or refuses to file a personal property  
15 return, the assessor shall, on behalf of the taxpayer, file a personal  
16 property return which shall list and value all of the taxpayer's  
17 taxable personal property at net book value. The county assessor shall  
18 list or change the valuation of any item of tangible personal property  
19 for the current taxing period and the three previous taxing periods or  
20 any taxing period included therein.

21 (2) The tangible personal property so listed and valued  
22 shall be taxed at the same rate as would have been imposed upon the  
23 property in the tax district in which the property should have been  
24 returned for taxation.

25 (3) Any valuation added to a personal property return or  
26 added through the filing of a personal property return, after May 1  
27 and on or before July 31 of the year the property is required to be

1 reported, shall be subject to a penalty of ten percent of the tax due  
2 on the value added.

3 (4) Any valuation added to a personal property return or  
4 added through the filing of a personal property return, on or after  
5 August 1 of the year the property is required to be reported, shall be  
6 subject to a penalty of twenty-five percent of the tax due on the  
7 value added.

8 (5) Interest shall be assessed upon both the tax and the  
9 penalty at the rate specified in section 45-104.01, as such rate may  
10 from time to time be adjusted by the Legislature, from the date the  
11 tax would have been delinquent until paid.

12 (6) Whenever valuation changes are made to a personal  
13 property return or a personal property return is filed pursuant to  
14 this section, the county assessor shall correct the assessment roll  
15 and tax list, if necessary, to reflect such changes. Such corrections  
16 shall be made for the current taxing period and the three previous  
17 taxing periods or any taxing period included therein. If the change  
18 results in a decreased taxable valuation on the personal property  
19 return and the personal property tax has been paid prior to a  
20 correction pursuant to this section, the taxpayer may request a refund  
21 or credit of the tax in the same manner prescribed in section  
22 77-1734.01, except that such request shall be made within three years  
23 after the date the tax was due.

24 Sec. 3. Section 77-1344, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:

26 77-1344. (1) Agricultural or horticultural land which has an  
27 actual value as defined in section 77-112 reflecting purposes or uses

1 other than agricultural or horticultural purposes or uses shall be  
2 assessed as provided in subsection (3) of section 77-201 if the land  
3 meets the qualifications of this subsection and an application for  
4 such special valuation is filed and approved pursuant to section  
5 77-1345. In order for the land to qualify for special valuation all of  
6 the following criteria shall be met: (a) The land is located outside  
7 the corporate boundaries of any sanitary and improvement district,  
8 city, or village except as provided in subsection (2) of this section;  
9 and (b) the land is agricultural or horticultural land.

10 (2) Special valuation may be applicable to agricultural or  
11 horticultural land included within the corporate boundaries of a city  
12 or village if the land is subject to a conservation or preservation  
13 easement as provided in the Conservation and Preservation Easements  
14 Act and the governing body of the city or village approves the  
15 agreement creating the easement.

16 (3) The eligibility of land for the special valuation  
17 provisions of this section shall be determined each year as of  
18 January 1, but, if the land so qualified becomes disqualified on or  
19 before December 31 of that year, it shall be valued at its recapture  
20 value. ~~upon notice from the county assessor that the land is~~  
21 ~~disqualified pursuant to section 77-1347 prior to July 25 of the same~~  
22 ~~year, it shall be valued and carried on the assessment roll according~~  
23 ~~to section 77-201. If the land becomes disqualified after the date of~~  
24 ~~levy, its valuation for that year shall continue as provided in this~~  
25 ~~section.~~

26 (4) The special valuation placed on such land by the county  
27 assessor under this section shall be subject to equalization by the

1 county board of equalization and the Tax Equalization and Review  
2 Commission.

3 (5) Recapture value shall be determined only through tax  
4 year ~~2009-2008~~. The recapture valuation placed on such land by  
5 the county assessor under this section shall be subject to  
6 equalization by the county board of equalization and the Tax  
7 Equalization and Review Commission.

8 Sec. 4. Section 77-1347.01, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 77-1347.01. ~~(1) The~~ At anytime, the county assessor may  
11 ~~make a determination~~ determine that land no longer qualifies for  
12 special valuation pursuant to sections 77-1344 and 77-1347. If ~~the~~  
13 ~~county assessor's disqualification determination is made on or before~~  
14 ~~March 19 of the year for which the~~ land is deemed disqualified, the  
15 county assessor shall send a written notice of the determination to  
16 the applicant or owner within fifteen days after his or her  
17 determination, including the reason for the disqualification. A  
18 protest of the county assessor's determination may be filed with the  
19 county board of equalization within thirty days after the mailing of  
20 the notice. The county board of equalization shall decide the protest  
21 within thirty days after the filing of the protest. The county clerk  
22 shall, within seven days after the county board of equalization's  
23 final decision, mail to the protester written notification of the  
24 board's decision. The decision of the county board of equalization may  
25 be appealed to the Tax Equalization and Review Commission in  
26 accordance with section 77-5013 within thirty days after the date of  
27 the decision. The valuation notice relating to the land subject to the



1 county assessor's disqualification notice shall be sent in accordance  
2 with subsection (2) of section 77-1315 and the valuation may be  
3 protested pursuant to section 77-1502.

4 ~~(2) If the county assessor's disqualification determination~~  
5 ~~is made after March 19 and on or before July 25 of the year for which~~  
6 ~~the land is deemed disqualified, the county assessor shall prepare a~~  
7 ~~report for the county board of equalization setting forth the parcel~~  
8 ~~the county assessor believes should be disqualified, the reason for~~  
9 ~~the disqualification, and the valuation of the property after~~  
10 ~~disqualification. The county board of equalization may meet on or~~  
11 ~~after June 1 and on or before July 25 to consider the question of the~~  
12 ~~disqualification and valuation of a parcel or parcels reported to the~~  
13 ~~county board of equalization pursuant to this section. Upon review of~~  
14 ~~the report from the county assessor, the county board of equalization~~  
15 ~~may issue a written notice to the taxpayer determining that the~~  
16 ~~parcel should be disqualified and determining the valuation of the~~  
17 ~~parcel after disqualification. A protest of either the~~  
18 ~~disqualification determination or the valuation of the parcel, or~~  
19 ~~both, may be filed with the county board of equalization within~~  
20 ~~thirty days after the mailing of the notice. The county board of~~  
21 ~~equalization shall decide the protest within thirty days after the~~  
22 ~~filing of the protest. The county clerk shall, within seven days~~  
23 ~~after the county board of equalization's final decision, mail to the~~  
24 ~~protester written notification of the board's decision. The decision~~  
25 ~~of the county board of equalization may be appealed to the Tax~~  
26 ~~Equalization and Review Commission in accordance with section 77-5013~~  
27 ~~within thirty days after the date of the decision.~~

1           Sec. 5. Section 77-1348, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           77-1348. (1) ~~Whenever~~ For tax years 2007 and 2008,  
4 whenever land which has received special valuation becomes  
5 disqualified for such special valuation pursuant to section  
6 77-1347.01, the land shall be subject to taxation at its recapture  
7 value for the year in which it became disqualified. Additionally,  
8 the assessor shall ~~notify the applicant and there shall be added~~  
9 add to the tax extended against the land on the respective property  
10 tax ~~roll or~~ rolls, to be collected and distributed in the same  
11 manner as other taxes levied upon real property, ~~an~~ a tax amount  
12 equal to the sum of the following:

13           ~~(a)(i) For tax year 2007, if the land was disqualified~~  
14 ~~before July 25 of the year of disqualification, the total amount by~~  
15 ~~which the taxes assessed against the land would have been increased~~  
16 ~~if it had been valued at its recapture value during the last two or~~  
17 ~~lesser number of years in which such special valuation was in effect~~  
18 ~~for the land, and, if the land was disqualified on or after July 25~~  
19 ~~of the year of disqualification, the total amount by which the taxes~~  
20 ~~assessed against the land would have increased if it had been valued~~  
21 ~~at its recapture value during the last three or lesser number of~~  
22 ~~years in which special valuation was in effect;~~

23           ~~(ii) For tax year 2008, if the land was disqualified before~~  
24 ~~July 25 of the year of disqualification, the total amount by which the~~  
25 ~~taxes assessed against the land would have been increased if it had~~  
26 ~~been valued at its recapture value during the last year in which such~~  
27 ~~special valuation was in effect for the land, and, if the land was~~

1 ~~disqualified on or after July 25 of the year of disqualification, the~~  
2 ~~total amount by which the taxes assessed against the land would have~~  
3 ~~increased if it had been valued at its recapture value during the~~  
4 ~~last two or lesser number of years in which special valuation was in~~  
5 ~~effect; and~~

6 ~~(iii) For tax year 2009, if the land was disqualified~~  
7 ~~before July 25 of the year of disqualification, the total amount by~~  
8 ~~which taxes assessed against the land would have been increased if it~~  
9 ~~had been valued at its recapture value during the current tax year,~~  
10 ~~and, if the land was disqualified on or after July 25 of the year of~~  
11 ~~disqualification, the total amount by which the taxes assessed~~  
12 ~~against the land would have increased if it had been valued at its~~  
13 ~~recapture value during the last year in which special valuation was~~  
14 ~~in effect.~~

15 (a)(i) If the land becomes disqualified in 2007, the total  
16 amount of additional tax had the land been valued at eighty percent of  
17 its actual value for the preceding two years or the number of years  
18 in which special valuation was in effect if fewer than two years;  
19 and

20 (ii) If the land becomes disqualified in 2008, the total  
21 amount of additional tax had the land been valued at its recapture  
22 value for the preceding year if special valuation was in effect.

23 For tax years beginning in ~~2010, 2009~~, the  
24 disqualification of land for special valuation shall not result in  
25 additional taxes; and

26 (b) Interest upon the amounts of additional tax from each  
27 year included in subdivision (1)(a) of this section at the rate of six

1 percent from the dates at which such additional taxes would have been  
2 payable if no special valuation had been in effect through sixty days  
3 after the notice sent pursuant to subsection (1) of this section. Upon  
4 expiration of the sixty days, the additional taxes and interest shall  
5 be delinquent and interest shall accrue at the rate provided in  
6 section 45-104.01 until paid.

7 (2) In cases when the designation of special valuation is  
8 removed as a result of a sale or transfer described in subdivision (2)  
9 or (3) of section 77-1347 other than an acquisition described in  
10 subsection (3) of this section, the lien for such increased taxes and  
11 interest shall attach as of the day preceding such sale or transfer.

12 (3) The provisions of subsection (1) of this section do not  
13 apply if:

14 (a) The land was acquired by eminent domain;

15 (b) The land is owned by a public entity and is disqualified  
16 from special valuation because it is being used or is being developed  
17 for use in a public purpose or is exchanged for other property to be  
18 used or developed for use in a public purpose; or

19 (c) The land is donated to an organization exempt from  
20 taxation under section 501(c)(3) of the Internal Revenue Code or to  
21 the state or its political subdivisions and will be used by the  
22 organization, state, or political subdivision for a public,  
23 educational, religious, charitable, or cemetery purpose under section  
24 77-202.

25 Sec. 6. Section 77-1502, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27 77-1502. (1) The county board of equalization shall meet for

1 the purpose of reviewing and deciding written protests filed pursuant  
2 to this section beginning on or after June 1 and ending on or before  
3 July 25 of each year. A protest may be filed by or on behalf of the  
4 owner of record or the person responsible for payment of the tax on  
5 the parcel. Protests regarding real property shall be signed and  
6 filed after the county assessor's completion of the real property  
7 assessment roll required by section 77-1315 and on or before June 30.  
8 For protests of real property, a protest shall be filed for each  
9 parcel. Protests regarding tangible personal property shall be signed  
10 and filed on or before the last date for filing the return required by  
11 section 77-1229. The county board in a county with a population of  
12 more than one hundred thousand inhabitants based upon the most recent  
13 federal decennial census may adopt a resolution to extend the deadline  
14 for hearing protests from July 25 to August 10. The resolution must be  
15 adopted before July 25 and it will affect the time for hearing  
16 protests for that year only. By adopting such resolution, such county  
17 waives any right to petition the Tax Equalization and Review  
18 Commission for adjustment of a class or subclass of real property  
19 under section 77-1504.01 for that year.

20 (2) Each protest shall be signed and filed in triplicate  
21 with the county clerk of the county where the property is assessed.  
22 The protest shall contain or have attached a statement of the reason  
23 or reasons why the requested change should be made and a description  
24 of the property to which the protest applies. If the property is real  
25 property, a description of each parcel shall be provided. If the  
26 property is tangible personal property, a physical description of the  
27 property under protest shall be provided. If the protest does not

1 contain or have attached the statement of the reason or reasons for  
2 the protest or the description of the property, the protest shall be  
3 dismissed by the county board of equalization.

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

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

1 the county clerk incomplete, the county assessor shall return the same  
2 to the county clerk for proper preparation.

3 (5) On or before August 2, or on or before August 18 in a  
4 county that has adopted a resolution to extend the deadline for  
5 hearing protests, the county clerk shall mail to the protester written  
6 notice of the board's decision. The notice shall contain a statement  
7 advising the protester that a report of the board's decision is  
8 available at the county clerk's or county assessor's office, whichever  
9 is appropriate, and that a copy of the report may be used to complete  
10 an appeal to the Tax Equalization and Review Commission.

11 Sec. 7. Section 77-1613.02, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13 77-1613.02. The county assessor or county clerk shall  
14 correct the assessment and tax rolls after action of the county board  
15 of equalization. ~~The county board shall provide the county assessor~~  
16 ~~or county clerk with a firmly bound book for the entry of corrections,~~  
17 ~~each~~ Each correction being made in triplicate, each set of  
18 triplicate forms being consecutively numbered, and there shall be  
19 entered upon such form all data pertaining to the assessment which is  
20 to be corrected. The correction ~~book~~ shall show all additions and  
21 reductions, the amount of tax added or reduced, with the reason  
22 therefor, and the page or pages of the tax rolls upon which such  
23 change is to be made. The original copy shall be delivered to the  
24 county treasurer, the duplicate copy to the county clerk, and the  
25 triplicate copy shall remain ~~in the firmly bound book~~ in the office  
26 of the county assessor. ~~The correction book and the journal for~~  
27 ~~recording each entry shall be kept by the county assessor or county~~

1 ~~clerk.~~ The county assessor or county clerk shall provide upon  
2 demand a listing showing each entry and sorted by tax year. The  
3 county treasurer shall thereupon correct the tax roll to conform to  
4 the correction copy and all changes shall be made in red ink, drawing  
5 a line through the original or erroneous figures, but not erasing the  
6 same. No county assessor shall reduce or increase the valuation of any  
7 property, real or personal, without the approval of the county board  
8 of equalization. Any county assessor who shall willfully reduce or  
9 increase the valuation of any property, without the approval of the  
10 county board of equalization, as provided in this section, shall be  
11 guilty of a misdemeanor and shall, upon conviction thereof, be fined  
12 not less than twenty dollars nor more than one hundred dollars.

13 Sec. 8. Section 77-5018, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15 77-5018. (1) The commission may issue decisions and orders  
16 which are supported by the evidence and appropriate for resolving the  
17 matters in dispute. Every final decision and order adverse to a party  
18 to the proceeding, rendered by the commission in a case appealed to  
19 the commission, shall be in writing or stated in the record and shall  
20 be accompanied by findings of fact and conclusions of law. The  
21 findings of fact shall consist of a concise statement of the  
22 conclusions upon each contested issue of fact. Parties to the  
23 proceeding shall be notified of the decision and order in person or by  
24 mail. A copy of the decision and order shall be delivered or mailed  
25 upon request to each party or his or her attorney of record. Any  
26 decision rendered by the commission shall be certified to the county  
27 treasurer and to the officer charged with the duty of preparing the



1 tax list, and if and when such decision becomes final, such officers  
2 shall correct their records accordingly and the tax list pursuant to  
3 section 77-1613.02

4 (2) The commission may, on its own motion, modify or change  
5 its findings or orders, at any time before an appeal and within ten  
6 days after the date of such findings or orders, for the purpose of  
7 correcting any ambiguity, clerical error, or patent or obvious error.  
8 The time for appeal shall not be lengthened because of the correction  
9 unless the correction substantially changes the findings or order.

10 Sec. 9. Original sections 77-1233.04 and 77-1613.02, Reissue  
11 Revised Statutes of Nebraska, and sections 77-202.03, 77-1344,  
12 77-1347.01, 77-1348, 77-1502, and 77-5018, Revised Statutes Cumulative  
13 Supplement, 2006, are repealed.

14 Sec. 10. The following section is outright repealed: Section  
15 77-1216, Reissue Revised Statutes of Nebraska.

16 Sec. 11. Since an emergency exists, this act takes effect  
17 when passed and approved according to law.