

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 168**

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 60-3,189, 77-202.12, 77-684, 77-1345.01, 77-1504, 77-1507,  
3 77-1510, and 77-5017, Revised Statutes Cumulative  
4 Supplement, 2006, and section 79-1016, Revised Statutes  
5 Cumulative Supplement, 2006, as affected by Referendum 2006,  
6 No. 422; to change protest and appeal procedures; to  
7 harmonize provisions; to repeal the original sections; and  
8 to declare an emergency.

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

1           Section 1. Section 60-3,189, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           60-3,189. (1) A veteran of the United States Armed Forces  
4 who qualifies for an exemption from the motor vehicle tax under  
5 subdivision (2) of section 60-3,185 shall apply for the exemption to  
6 the county treasurer or designated county official not more than  
7 fifteen days before and not later than thirty days after the  
8 registration date for the motor vehicle. A renewal application shall  
9 be made annually not sooner than the first day of the last month of  
10 the registration period or later than the last day of the registration  
11 period. The county treasurer or designated county official shall  
12 approve or deny the application and notify the applicant of his or her  
13 decision within twenty days after the filing of the application. An  
14 applicant may appeal the denial of an application to the county board  
15 of equalization within twenty days after the date the notice was  
16 mailed.

17           (2) An organization which qualifies for an exemption from  
18 the motor vehicle tax under subdivision (6) of section 60-3,185 shall  
19 apply for the exemption to the county treasurer or designated county  
20 official not more than fifteen days before and not later than thirty  
21 days after the registration date for the motor vehicle. For a newly  
22 acquired motor vehicle, an application for exemption must be made  
23 within thirty days after the purchase date. A renewal application  
24 shall be made annually not sooner than the first day of the last month  
25 of the registration period or later than the last day of the  
26 registration period. The county treasurer or designated county  
27 official shall examine the application and recommend either exempt or

1 nonexempt status to the county board of equalization within twenty  
2 days after receipt of the application. The county board of  
3 equalization, after a hearing on ten days' notice to the applicant and  
4 after considering the recommendation of the county treasurer or  
5 designated county official and any other information it may obtain,  
6 shall approve or deny the exemption on the basis of law and of rules  
7 and regulations adopted and promulgated by the Property Tax  
8 Administrator within thirty days after the hearing. The county board  
9 of equalization shall mail or deliver its final decision to the  
10 applicant and the county treasurer or designated county official  
11 within seven days after the date of decision. The decision of the  
12 county board of equalization may be appealed to the Tax Equalization  
13 and Review Commission in accordance with the Tax Equalization and  
14 Review Commission Act within thirty days after the final decision. If  
15 on appeal the commission remands the matter to the county board of  
16 equalization for reconsideration or rehearing, the procedures in  
17 section 8 of this act apply.

18 Sec. 2. Section 77-202.12, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 77-202.12. (1) On or before March 1, the county assessor  
21 shall send notice to the state or to any governmental subdivision if  
22 it has property not being used for a public purpose upon which a  
23 payment in lieu of taxes is not made. Such notice shall inform the  
24 state or governmental subdivision that the property will be subject to  
25 taxation for property tax purposes. The written notice shall contain  
26 the legal description of the property and be given by first-class mail  
27 addressed to the state's or governmental subdivision's last-known

1 address. If the property is leased by the state or the governmental  
2 subdivision to another entity and the lessor does not intend to pay  
3 the taxes for the lessee as allowed under subsection (4) of section  
4 77-202.11, the lessor shall immediately forward the notice to the  
5 lessee.

6 (2) The state, governmental subdivision, or lessee may  
7 protest the determination of the county assessor that the property is  
8 not used for a public purpose to the county board of equalization on  
9 or before April 1. The county board of equalization shall issue its  
10 decision on the protest on or before May 1.

11 (3) The decision of the county board of equalization may be  
12 appealed to the Tax Equalization and Review Commission on or before  
13 June 1. The Property Tax Administrator in his or her discretion may  
14 intervene in an appeal pursuant to this section. If on appeal the  
15 commission remands the matter to the county board of equalization for  
16 reconsideration or rehearing, the procedures in section 8 of this act  
17 apply.

18 Sec. 3. Section 77-684, Revised Statutes Cumulative  
19 Supplement, 2006, is amended to read:

20 77-684. The Property Tax Administrator shall, on or before  
21 January 15 each year, establish a tax rate for purposes of taxation  
22 against the taxable value as provided in sections 77-682 and 77-683 at  
23 a rate which shall be equal to the total property taxes levied in the  
24 state divided by the total taxable value of all taxable property in  
25 the state as certified pursuant to section 77-1613.01. The date when  
26 such tax rate is determined shall be deemed to be the levy date for  
27 the property. The Property Tax Administrator shall send to each car

1 line company a statement showing the taxable value, the tax rate, and  
2 the amount of the tax and a statement that such tax is due and payable  
3 to the Property Tax Administrator on January 31 next following the  
4 levy thereof. If a car line company feels aggrieved, such company may,  
5 on or before February 15, file an appeal with the Property Tax  
6 Administrator. The Property Tax Administrator shall act upon the  
7 appeal and shall issue a written order mailed to the company within  
8 seven days after the date of the order. The order may be appealed  
9 within thirty days after the date of the order to the Tax Equalization  
10 and Review Commission in accordance with section 77-5013. If on  
11 appeal the commission remands the matter to the Property Tax  
12 Administrator for reconsideration or rehearing, the procedures in  
13 section 8 of this act apply. The Property Tax Administrator shall  
14 remit the tax collected, less a three-percent collection fee, to the  
15 State Treasurer for distribution among the taxing subdivisions in  
16 proportion to all railroad taxes levied by taxing subdivisions. The  
17 collection fee shall be remitted to the State Treasurer for credit to  
18 the Department of Property Assessment and Taxation Cash Fund.

19 Sec. 4. Section 77-1345.01, Revised Statutes Cumulative  
20 Supplement, 2006, is amended to read:

21 77-1345.01. (1) On or before July 15 in the year of  
22 application, the county assessor shall approve or deny the application  
23 for special valuation filed pursuant to section 77-1345. On or before  
24 July 22, the county assessor shall issue notice of approval or denial.

25 (2) If the application is approved by the county assessor,  
26 the land shall be valued as provided in section 77-1344 and, on or  
27 before July 22, the county board of equalization shall send a property

1 valuation notice for special value and recapture value to the owner  
2 and, if not the same, the applicant. Within thirty days after the  
3 mailing of the notice, a written protest of the special value or  
4 recapture value may be filed.

5 (3)(a) If the application is denied by the assessor, a  
6 written protest of the denial of the application may be filed within  
7 thirty days after the mailing of the denial.

8 (b) If the denial of an application for special valuation is  
9 reversed on appeal and the application is approved, the land shall be  
10 valued as provided in section 77-1344 and the county board of  
11 equalization shall send the property valuation notice for special  
12 value and recapture value to the owner and, if not the same, the  
13 applicant or his or her successor in interest, within fourteen days  
14 after the date of the final order. Within thirty days after the  
15 mailing of the notice, a written protest of the special value or  
16 recapture value may be filed.

17 (4) If the county board of equalization takes action  
18 pursuant to section 77-1504 or 77-1507 and the applicant filed an  
19 application for special valuation pursuant to subsection (3) of  
20 section 77-1345, the county assessor shall approve or deny the  
21 application within fifteen days after the filing of the application  
22 and issue notice of the approval or denial as prescribed in subsection  
23 (1) of this section. If the application is denied by the county  
24 assessor, a written protest of the denial may be filed within thirty  
25 days of the mailing of the denial.

26 (5) The assessor shall mail notice of any action taken by  
27 him or her on an application to the owner and the applicant if

1 different than the owner.

2 (6) All provisions of section 77-1502 except dates for  
3 filing of a protest, the period for hearing protests, and the date for  
4 mailing notice of the county board of equalization's decision are  
5 applicable to any protest filed pursuant to this section.

6 (7) The county board of equalization shall decide any  
7 protest filed pursuant to this section within thirty days after the  
8 filing of the protest.

9 (8) The clerk shall mail a copy of any decision made by the  
10 county board of equalization on a protest filed pursuant to this  
11 section to the owner and the applicant if different than the owner  
12 within seven days after the board's decision.

13 (9) Any decision of the county board of equalization may be  
14 appealed to the Tax Equalization and Review Commission, in accordance  
15 with section 77-5013, within thirty days after the date of the  
16 decision. If on appeal the commission remands the matter to the  
17 county board of equalization for reconsideration or rehearing, the  
18 procedures in section 8 of this act apply.

19 (10) Any applicant may petition the Tax Equalization and  
20 Review Commission in accordance with section 77-5013, on or before  
21 December 31 of each year, to determine whether the land will receive  
22 special valuation for that year if a failure to give notice as  
23 prescribed by this section prevented timely filing of a protest or  
24 appeal provided for in this section.

25 Sec. 5. Section 77-1504, Revised Statutes Cumulative  
26 Supplement, 2006, is amended to read:

27 77-1504. The county board of equalization may meet on or

1 after June 1 and on or before July 25, or on or before August 10 if  
2 the county has adopted a resolution to extend the deadline for hearing  
3 protests under section 77-1502, to consider and correct the current  
4 year's assessment of any real property which has been undervalued or  
5 overvalued. The board shall give notice of the assessed value to the  
6 record owner or agent at his or her last-known address.

7 The county board of equalization in taking action pursuant  
8 to this section may only consider the report of the county assessor  
9 pursuant to section 77-1315.01.

10 Action of the county board of equalization pursuant to this  
11 section shall be for the current assessment year only.

12 The action of the county board of equalization may be  
13 protested to the board within thirty days after the mailing of the  
14 notice required by this section. If no protest is filed, the action of  
15 the board shall be final. If a protest is filed, the county board of  
16 equalization shall hear the protest in the manner prescribed in  
17 section 77-1502, except that all protests shall be heard and decided  
18 on or before September 15 or on or before September 30 if the county  
19 has adopted a resolution to extend the deadline for hearing protests  
20 under section 77-1502. Within seven days after the county board of  
21 equalization's final decision, the county clerk shall mail to the  
22 protester written notice of the decision. The notice shall contain a  
23 statement advising the protester that a report of the decision is  
24 available at the county clerk's or county assessor's office, whichever  
25 is appropriate, and that a copy of the report may be used to complete  
26 an appeal to the Tax Equalization and Review Commission.

27 The action of the county board of equalization upon a

1 protest filed pursuant to this section may be appealed to the Tax  
2 Equalization and Review Commission on or before October 15 or on or  
3 before October 30 if the county has adopted a resolution to extend the  
4 deadline for hearing protests under section 77-1502. If on appeal the  
5 commission remands the matter to the county board of equalization for  
6 reconsideration or rehearing, the procedures in section 8 of this act  
7 apply.

8 Sec. 6. Section 77-1507, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10 77-1507. (1) The county board of equalization may meet at  
11 any time for the purpose of assessing any omitted real property that  
12 was not reported to the county assessor pursuant to section 77-1318.01  
13 and for correction of clerical errors as defined in section 77-128  
14 that result in a change of assessed value. The county board of  
15 equalization shall give notice of the assessed value of the real  
16 property to the record owner or agent at his or her last-known  
17 address. For real property which has been omitted in the current year,  
18 the county board of equalization shall not send notice pursuant to  
19 this section on or before June 1.

20 Protests of the assessed value proposed for omitted real  
21 property pursuant to this section or a correction for clerical errors  
22 shall be filed with the county board of equalization within thirty  
23 days after the mailing of the notice. All provisions of section  
24 77-1502 except dates for filing a protest, the period for hearing  
25 protests, and the date for mailing notice of the county board of  
26 equalization's decision are applicable to any protest filed pursuant  
27 to this section.

1           (2) The county clerk shall, within seven days after the  
2 board's final decision, send:

3           (a) For protested action, a notification to the protester of  
4 the board's final action advising the protester that a report of the  
5 board's final decision is available at the county clerk's or county  
6 assessor's office, whichever is appropriate, and that a copy of the  
7 report may be used to complete an appeal to the Tax Equalization and  
8 Review Commission; and

9           (b) For protested and nonprotested action, a report to the  
10 Property Tax Administrator which shall state the description of the  
11 property, the reason such property was not assessed pursuant to  
12 section 77-1301, and a statement of the board's justification for its  
13 action. A copy of the report shall be available for public inspection  
14 in the office of the county clerk.

15           (3) The action of the county board of equalization upon a  
16 protest filed pursuant to this section may be appealed to the Tax  
17 Equalization and Review Commission within thirty days after the  
18 board's final decision. If on appeal the commission remands the  
19 matter to the county board of equalization for reconsideration or  
20 rehearing, the procedures in section 8 of this act apply.

21           (4) Improvements to real property which were properly  
22 reported to the county assessor pursuant to section 77-1318.01 for the  
23 current year and were not added to the assessment roll by the county  
24 assessor on or before March 19 shall only be added to the assessment  
25 roll by the county board of equalization from June 1 through July 25.  
26 In counties that have adopted a resolution to extend the deadline for  
27 hearing protests under section 77-1502, the deadline of July 25 shall

1 be extended to August 10.

2 Sec. 7. Section 77-1510, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4 77-1510. Any action of the county board of equalization  
5 pursuant to section 77-1502 may be appealed to the Tax Equalization  
6 and Review Commission in accordance with section 77-5013 on or before  
7 August 24 or on or before September 10 if the county has adopted a  
8 resolution to extend the deadline for hearing protests under section  
9 77-1502. If on appeal the commission remands the matter to the county  
10 board of equalization for reconsideration or rehearing, the procedures  
11 in section 8 of this act apply.

12 Sec. 8. If the Tax Equalization and Review Commission  
13 orders the county board of equalization or Property Tax Administrator  
14 to reconsider or rehear a matter, the reconsideration or rehearing  
15 shall be completed within sixty days after the commission's order and  
16 decision. Written notice of the decision, action, order, or  
17 determination made after reconsideration or rehearing shall be given  
18 to all parties before the commission by mailing within seven days  
19 after the date the decision, action, order, or determination is made  
20 or entered. A decision, order, action, or determination made after  
21 reconsideration or rehearing may be appealed to the commission in  
22 accordance with section 77-5013 within thirty days after the date of  
23 the decision, action, order, or determination. If the decision,  
24 action, order, or determination on remand concerns taxation or the  
25 taxable value of real or personal property by a county board of  
26 equalization and is not appealed, a copy of the decision, action,  
27 order, or determination shall be certified by the county clerk to the

1 county treasurer and the officer charged with the duty of preparing  
2 the tax list, and the county treasurer and such officer shall adjust  
3 the records accordingly.

4 Sec. 9. Section 77-5017, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 77-5017. (1) In resolving an appeal or petition, the  
7 commission may make such orders as are appropriate for resolving the  
8 dispute. On an appeal, the commission may remand for reconsideration  
9 or rehearing with directions. In ~~but in~~ no case shall the relief  
10 be excessive compared to the problems addressed. The commission may  
11 make prospective orders requiring changes in assessment practices  
12 which will improve assessment practices or affect the general level of  
13 assessment value or the measures of central tendency in a positive  
14 way. If no other relief is adequate to resolve disputes, the  
15 commission may order a reappraisal of property within a county, an  
16 area within a county, or classes or subclasses of property within a  
17 county.

18 (2) In an appeal specified in subdivision (10) or (11) of  
19 section 77-5016 for which the commission determines exempt property to  
20 be taxable, the commission shall order the county board of  
21 equalization to determine the taxable value of the property, unless  
22 the parties stipulate to such taxable value during the hearing before  
23 the commission. The order shall require the county board of  
24 equalization to (a) assess such property using procedures for  
25 assessing omitted property, (b) determine such taxable value within  
26 ninety days after the issuance of the commission's order, and (c)  
27 apply interest, but not penalty, to the taxable value as of the date

1 the commission's order was issued or the date the taxes were  
2 delinquent, whichever is later.

3 (3) A determination of the taxable value of the property  
4 made by the county board of equalization pursuant to subsection (2) of  
5 this section may be appealed to the commission within thirty days  
6 after the board's decision.

7 Sec. 10. Section 79-1016, Revised Statutes Cumulative  
8 Supplement, 2006, as affected by Referendum 2006, No. 422, is amended  
9 to read:

10 79-1016. (1) On or before August 25, the county assessor  
11 shall certify to the Property Tax Administrator the total taxable  
12 value by school district in the county for the current assessment year  
13 on forms prescribed by the Property Tax Administrator. The county  
14 assessor may amend the filing for changes made to the taxable  
15 valuation of the school district in the county if corrections or  
16 errors on the original certification are discovered. Amendments shall  
17 be certified to the Property Tax Administrator on or before September  
18 30.

19 (2) On or before October 10, the Property Tax Administrator  
20 shall compute and certify to the State Department of Education the  
21 adjusted valuation for the current assessment year for each class of  
22 property in each school district and each local system. The adjusted  
23 valuation of property for each school district and each local system,  
24 for purposes of determining state aid pursuant to the Tax Equity and  
25 Educational Opportunities Support Act, shall reflect as nearly as  
26 possible state aid value as defined in subsection (3) of this section.  
27 The Property Tax Administrator shall notify each school district and

1 each local system of its adjusted valuation for the current assessment  
2 year by class of property on or before October 10. Establishment of  
3 the adjusted valuation shall be based on the taxable value certified  
4 by the county assessor for each school district in the county adjusted  
5 by the determination of the level of value for each school district  
6 from an analysis of the comprehensive assessment ratio study or other  
7 studies developed by the Property Tax Administrator, in compliance  
8 with professionally accepted mass appraisal techniques, as required by  
9 section 77-1327. The Property Tax Administrator shall adopt and  
10 promulgate rules and regulations setting forth standards for the  
11 determination of level of value for school aid purposes.

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

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

15 (b) For agricultural and horticultural land, seventy-five  
16 percent of actual value as provided in sections 77-1359 to 77-1363.  
17 For agricultural and horticultural land that receives special  
18 valuation pursuant to section 77-1344, seventy-five percent of special  
19 valuation as defined in section 77-1343; and

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

22 (4) On or before November 10, any local system may file with  
23 the Property Tax Administrator written objections to the adjusted  
24 valuations prepared by the Property Tax Administrator, stating the  
25 reasons why such adjusted valuations are not the valuations required  
26 by subsection (3) of this section. The Property Tax Administrator  
27 shall fix a time for a hearing. Either party shall be permitted to

1 introduce any evidence in reference thereto. On or before January 1,  
2 the Property Tax Administrator shall enter a written order modifying  
3 or declining to modify, in whole or in part, the adjusted valuations  
4 and shall certify the order to the State Department of Education.  
5 Modification by the Property Tax Administrator shall be based upon the  
6 evidence introduced at hearing and shall not be limited to the  
7 modification requested in the written objections or at hearing. A copy  
8 of the written order shall be mailed to the local system within seven  
9 days after the date of the order. The written order of the Property  
10 Tax Administrator may be appealed within thirty days after the date of  
11 the order to the Tax Equalization and Review Commission in accordance  
12 with section 77-5013. If on appeal the commission remands the matter  
13 to the Property Tax Administrator for reconsideration or rehearing,  
14 the procedures in section 8 of this act apply.

15 (5) On or before November 10, any local system or county  
16 official may file with the Property Tax Administrator a written  
17 request for a nonappealable correction of the adjusted valuation due  
18 to clerical error as defined in section 77-128 or, for agricultural  
19 and horticultural land, assessed value changes by reason of land  
20 qualified or disqualified for special use valuation pursuant to  
21 sections 77-1343 to 77-1348. On or before the following January 1, the  
22 Property Tax Administrator shall approve or deny the request and, if  
23 approved, certify the corrected adjusted valuations resulting from  
24 such action to the State Department of Education.

25 (6) On or before May 31 of the year following the  
26 certification of adjusted valuation pursuant to subsection (2) of this  
27 section, any local system or county official may file with the

1 Property Tax Administrator a written request for a nonappealable  
2 correction of the adjusted valuation due to changes to the tax list  
3 that change the assessed value of taxable property. Upon the filing of  
4 the written request, the Property Tax Administrator shall require the  
5 county assessor to recertify the taxable valuation by school district  
6 in the county on forms prescribed by the Property Tax Administrator.  
7 The recertified valuation shall be the valuation that was certified on  
8 the tax list, pursuant to section 77-1613, increased or decreased by  
9 changes to the tax list that change the assessed value of taxable  
10 property in the school district in the county in the prior assessment  
11 year. On or before the following July 31, the Property Tax  
12 Administrator shall approve or deny the request and, if approved,  
13 certify the corrected adjusted valuations resulting from such action  
14 to the State Department of Education.

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

18 (8) A school district whose state aid is to be calculated  
19 pursuant to subsection (5) of this section and whose state aid payment  
20 is postponed as a result of failure to calculate state aid pursuant to  
21 such subsection may apply to the state board for lump-sum payment of  
22 such postponed state aid. Such application may be for any amount up to  
23 one hundred percent of the postponed state aid. The state board may  
24 grant the entire amount applied for or any portion of such amount. The  
25 state board shall notify the Director of Administrative Services of  
26 the amount of funds to be paid in a lump sum and the reduced amount of  
27 the monthly payments. The Director of Administrative Services shall,

1 at the time of the next state aid payment made pursuant to section  
2 79-1022, draw a warrant for the lump-sum amount from appropriated  
3 funds and forward such warrant to the district.

4 Sec. 11. Original sections 60-3,189, 77-202.12, 77-684,  
5 77-1345.01, 77-1504, 77-1507, 77-1510, and 77-5017, Revised Statutes  
6 Cumulative Supplement, 2006, and section 79-1016, Revised Statutes  
7 Cumulative Supplement, 2006, as affected by Referendum 2006, No. 422,  
8 are repealed.

9 Sec. 12. Since an emergency exists, this act takes effect  
10 when passed and approved according to law.