

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 33

Introduced by Louden, 49; Carlson, 38; Hansen, 42; Utter, 33.

Read first time January 06, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections 77-201
2 and 77-5023, Reissue Revised Statutes of Nebraska, and
3 section 79-1016, Revised Statutes Cumulative Supplement,
4 2010; to change valuation of agricultural land and
5 horticultural land; to harmonize school aid provisions;
6 to provide an operative date; and to repeal the original
7 sections.

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

1 Section 1. Section 77-201, Reissue Revised Statutes of
2 Nebraska, is amended to read:

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

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

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

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

24 (5) Tangible personal property, not including motor
25 vehicles registered for operation on the highways of this state,

1 shall constitute a separate and distinct class of property for
2 purposes of property taxation, shall be subject to taxation, unless
3 expressly exempt from taxation, and shall be valued at its net book
4 value. Tangible personal property transferred as a gift or devise or
5 as part of a transaction which is not a purchase shall be subject to
6 taxation based upon the date the property was acquired by the
7 previous owner and at the previous owner's Nebraska adjusted basis.
8 Tangible personal property acquired as replacement property for
9 converted property shall be subject to taxation based upon the date
10 the converted property was acquired and at the Nebraska adjusted
11 basis of the converted property unless insurance proceeds are payable
12 by reason of the conversion. For purposes of this subsection, (a)
13 converted property means tangible personal property which is
14 compulsorily or involuntarily converted as a result of its
15 destruction in whole or in part, theft, seizure, requisition, or
16 condemnation, or the threat or imminence thereof, and no gain or loss
17 is recognized for federal or state income tax purposes by the holder
18 of the property as a result of the conversion and (b) replacement
19 property means tangible personal property acquired within two years
20 after the close of the calendar year in which tangible personal
21 property was converted and which is, except for date of construction
22 or manufacture, substantially the same as the converted property.

23 Sec. 2. Section 77-5023, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 77-5023 (1) Pursuant to section 77-5022, the commission

1 shall have the power to increase or decrease the value of a class or
2 subclass of real property in any county or taxing authority or of
3 real property valued by the state so that all classes or subclasses
4 of real property in all counties fall within an acceptable range.

5 (2) An acceptable range is the percentage of variation
6 from a standard for valuation as measured by an established indicator
7 of central tendency of assessment. Acceptable ranges are: (a) For
8 agricultural land and horticultural land as defined in section
9 77-1359, ~~sixty-nine to seventy-five~~ sixty-four to seventy percent of
10 actual value; (b) for lands receiving special valuation, ~~sixty-nine~~
11 ~~to seventy-five~~ sixty-four to seventy percent of special valuation as
12 defined in section 77-1343; and (c) for all other real property,
13 ninety-two to one hundred percent of actual value.

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

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

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

25 Sec. 3. Section 79-1016, Revised Statutes Cumulative

1 Supplement, 2010, is amended to read:

2 79-1016 (1) On or before August 25, the county assessor
3 shall certify to the Property Tax Administrator the total taxable
4 value by school district in the county for the current assessment
5 year on forms prescribed by the Tax Commissioner. The county assessor
6 may amend the filing for changes made to the taxable valuation of the
7 school district in the county if corrections or errors on the
8 original certification are discovered. Amendments shall be certified
9 to the Property Tax Administrator on or before September 30.

10 (2) On or before October 10, the Property Tax
11 Administrator shall compute and certify to the State Department of
12 Education the adjusted valuation for the current assessment year for
13 each class of property in each school district and each local system.
14 The adjusted valuation of property for each school district and each
15 local system, for purposes of determining state aid pursuant to the
16 Tax Equity and Educational Opportunities Support Act, shall reflect
17 as nearly as possible state aid value as defined in subsection (3) of
18 this section. The Property Tax Administrator shall notify each school
19 district and each local system of its adjusted valuation for the
20 current assessment year by class of property on or before October 10.
21 Establishment of the adjusted valuation shall be based on the taxable
22 value certified by the county assessor for each school district in
23 the county adjusted by the determination of the level of value for
24 each school district from an analysis of the comprehensive assessment
25 ratio study or other studies developed by the Property Tax

1 Administrator, in compliance with professionally accepted mass
2 appraisal techniques, as required by section 77-1327. The Tax
3 Commissioner shall adopt and promulgate rules and regulations setting
4 forth standards for the determination of level of value for state aid
5 purposes.

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

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

9 (b) For agricultural and horticultural land, ~~seventy-two~~
10 sixty-seven percent of actual value as provided in sections 77-1359
11 ~~to and~~ 77-1363. For agricultural and horticultural land that receives
12 special valuation pursuant to section 77-1344, ~~seventy-two~~ sixty-
13 seven percent of special valuation as defined in section 77-1343; and

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

16 (4) On or before November 10, any local system may file
17 with the Tax Commissioner written objections to the adjusted
18 valuations prepared by the Property Tax Administrator, stating the
19 reasons why such adjusted valuations are not the valuations required
20 by subsection (3) of this section. The Tax Commissioner shall fix a
21 time for a hearing. Either party shall be permitted to introduce any
22 evidence in reference thereto. On or before January 1, the Tax
23 Commissioner shall enter a written order modifying or declining to
24 modify, in whole or in part, the adjusted valuations and shall
25 certify the order to the State Department of Education. Modification

1 by the Tax Commissioner shall be based upon the evidence introduced
2 at hearing and shall not be limited to the modification requested in
3 the written objections or at hearing. A copy of the written order
4 shall be mailed to the local system within seven days after the date
5 of the order. The written order of the Tax Commissioner may be
6 appealed within thirty days after the date of the order to the Tax
7 Equalization and Review Commission in accordance with section
8 77-5013.

9 (5) On or before November 10, any local system or county
10 official may file with the Tax Commissioner a written request for a
11 nonappealable correction of the adjusted valuation due to clerical
12 error as defined in section 77-128 or, for agricultural and
13 horticultural land, assessed value changes by reason of land
14 qualified or disqualified for special use valuation pursuant to
15 sections 77-1343 to 77-1347.01. On or before the following January 1,
16 the Tax Commissioner shall approve or deny the request and, if
17 approved, certify the corrected adjusted valuations resulting from
18 such action to the State Department of Education.

19 (6) On or before May 31 of the year following the
20 certification of adjusted valuation pursuant to subsection (2) of
21 this section, any local system or county official may file with the
22 Tax Commissioner a written request for a nonappealable correction of
23 the adjusted valuation due to changes to the tax list that change the
24 assessed value of taxable property. Upon the filing of the written
25 request, the Tax Commissioner shall require the county assessor to

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

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

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

1 the district.

2 Sec. 4. This act becomes operative on January 1, 2012.

3 Sec. 5. Original sections 77-201 and 77-5023, Reissue
4 Revised Statutes of Nebraska, and section 79-1016, Revised Statutes
5 Cumulative Supplement, 2010, are repealed.