

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 145**

Introduced by Brasch, 16; Watermeier, 1.

Read first time January 11, 2013

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 2012; 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~~ sixty-five 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~~ sixty-five percent of  
19 its 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~~ fifty-nine to sixty-five percent  
10 of actual value; (b) for lands receiving special valuation, ~~sixty-~~  
11 ~~nine to seventy-five~~ fifty-nine to sixty-five percent of special  
12 valuation as defined in section 77-1343; and (c) for all other real  
13 property, 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, 2012, 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-two percent of actual value as provided in sections 77-1359 ~~to~~  
11 and 77-1363. For agricultural and horticultural land that receives  
12 special valuation pursuant to section 77-1344, ~~seventy-two~~ sixty-two  
13 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, 2014.

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, 2012, are repealed.