

LEGISLATURE OF NEBRASKA
NINETY-SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 290

Introduced by Jones, 43; Baker, 44; Bromm, 23; Bruning, 3;
Dierks, 40; Vrtiska, 1

Read first time January 5, 2001

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-201, 77-1343, 77-5023, and 79-1016, Revised Statutes
3 Supplement, 2000; to change provisions relating to
4 valuation of agricultural and horticultural land; to
5 change school state aid calculations; to harmonize
6 provisions; to provide an operative date; and to repeal
7 the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-201, Revised Statutes Supplement,
2 2000, is amended to read:

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

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

12 (3) Tangible personal property, not including motor
13 vehicles registered for operation on the highways of this state,
14 shall constitute a separate and distinct class of property for
15 purposes of property taxation, shall be subject to taxation, unless
16 expressly exempt from taxation, and shall be valued at its net book
17 value. Tangible personal property transferred as a gift or devise
18 or as part of a transaction which is not a purchase shall be
19 subject to taxation based upon the date the property was acquired
20 by the previous owner and at the previous owner's Nebraska adjusted
21 basis. Tangible personal property acquired as replacement property
22 for converted property shall be subject to taxation based upon the
23 date the converted property was acquired and at the Nebraska
24 adjusted basis of the converted property unless insurance proceeds
25 are payable by reason of the conversion. For purposes of this
26 subsection, (a) converted property means tangible personal property
27 which is compulsorily or involuntarily converted as a result of its
28 destruction in whole or in part, theft, seizure, requisition, or

1 condemnation, or the threat or imminence thereof, and no gain or
2 loss is recognized for federal or state income tax purposes by the
3 holder of the property as a result of the conversion and (b)
4 replacement property means tangible personal property acquired
5 within two years after the close of the calendar year in which
6 tangible personal property was converted and which is, except for
7 date of construction or manufacture, substantially the same as the
8 converted property.

9 Sec. 2. Section 77-1343, Revised Statutes Supplement,
10 2000, is amended to read:

11 77-1343. The purpose of sections 77-1343 to 77-1348 is
12 to provide a special valuation for qualified agricultural or
13 horticultural land so that the current assessed valuation of the
14 land for property tax purposes is the value that the land would
15 have without regard to the value the land would have for other
16 purposes or uses. For purposes of sections 77-1343 to 77-1348:

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

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

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

28 (4) Recapture valuation shall mean ~~eighty~~ fifty percent

1 of the actual value of the land pursuant to section 77-112;

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

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

9 (7) Zoned for agricultural or horticultural use shall
10 mean designation of any land predominantly for agricultural or
11 horticultural use by any political subdivision pursuant to sections
12 19-924 to 19-933, Chapter 14, article 4, Chapter 15, article 9,
13 Chapter 16, article 9, Chapter 17, article 10, or Chapter 23,
14 article 1. The primary objective of the agricultural or
15 horticultural use zoning shall be to preserve and protect
16 agricultural activities and the potential for the agricultural,
17 horticultural, or open use of land. Uses to be allowed on such
18 lands shall include primarily agricultural-related or
19 horticultural-related uses, and nonagricultural industrial,
20 commercial, or residential uses allowed on such lands shall be
21 restricted so that they do not conflict with or detract from this
22 objective.

23 Sec. 3. Section 77-5023, Revised Statutes Supplement,
24 2000, is amended to read:

25 77-5023. (1) Pursuant to section 77-5022, the commission
26 shall have the power to increase or decrease the value of a class
27 or subclass of real property of any county or tax district or real
28 property valued by the state so that all classes or subclasses of

1 real property in all counties fall within the acceptable range.

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

15 (3) For agricultural land, the acceptable range shall be
16 from ~~seventy-four~~ forty-four percent to ~~eighty~~ fifty percent of
17 actual value of agricultural land; beginning January 1, 2001, for
18 agricultural and horticultural land eligible for special valuation
19 under section 77-1344, the acceptable range shall be from
20 ninety-two percent to one hundred percent of the special valuation,
21 and the recapture valuation shall be between ninety-two to one
22 hundred percent of the recapture value; and for nonagricultural
23 real property, the acceptable range shall be from ninety-two
24 percent to one hundred percent of actual value of nonagricultural
25 real property.

26 Sec. 4. Section 79-1016, Revised Statutes Supplement,
27 2000, is amended to read:

28 79-1016. (1) On or before August 25, the county assessor

1 shall certify to the Property Tax Administrator the total taxable
2 value by school district in the county for the current assessment
3 year on forms prescribed by the Property Tax Administrator. On or
4 before October 10, the Property Tax Administrator shall compute and
5 certify to the State Department of Education the adjusted valuation
6 for the current assessment year for each class of property in each
7 school district and each local system. The adjusted valuation of
8 property for each school district and each local system, for
9 purposes of determining state aid pursuant to the Tax Equity and
10 Educational Opportunities Support Act, shall reflect as nearly as
11 possible state aid value as defined in subsection (2) of this
12 section. The Property Tax Administrator shall also notify each
13 school district and each local system of its adjusted valuation for
14 the current assessment year by class of property on or before
15 October 10. Establishment of the adjusted valuation shall be based
16 on assessment practices established by rule and regulation adopted
17 and promulgated by the Property Tax Administrator. The assessment
18 practices may include, but not be limited to, the appraisal methods
19 listed in section 77-112.

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

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

23 (b) For agricultural land, ~~eighty~~ fifty percent of market
24 value as provided in sections 77-1359 to 77-1363. For agricultural
25 land that receives special valuation pursuant to section 77-1344,
26 one hundred percent of special valuation as defined in section
27 77-1343; and

28 (c) For personal property, the net book value as defined

1 in section 77-120.

2 (3) On or before November 10, any local system may file
3 with the Property Tax Administrator written objections to the
4 adjusted valuations prepared by the Property Tax Administrator,
5 stating the reasons why such adjusted valuations are not the
6 valuations required by subsection (2) of this section. The
7 Property Tax Administrator shall fix a time for a hearing. Either
8 party shall be permitted to introduce any evidence in reference
9 thereto. On or before January 1, the Property Tax Administrator
10 shall enter an order modifying or declining to modify, in whole or
11 in part, the adjusted valuations and shall certify the order to the
12 State Department of Education. Modification by the Property Tax
13 Administrator shall be based upon the evidence introduced at
14 hearing and shall not be limited to the modification requested in
15 the written objections or at hearing. The final determination of
16 the Property Tax Administrator may be appealed to the Tax
17 Equalization and Review Commission in accordance with the Tax
18 Equalization and Review Commission Act.

19 (4) On or before November 10, any local system or county
20 official may file with the Property Tax Administrator a written
21 request for a nonappealable correction of the adjusted valuation
22 due to clerical error or, for agricultural land, assessed value
23 changes by reason of land qualified or disqualified for special use
24 valuation pursuant to sections 77-1343 to 77-1348. For purposes of
25 this subsection, clerical error means transposition of numbers,
26 allocation of value to the wrong school district, mathematical
27 error, and omitted value. On or before the following January 1,
28 the Property Tax Administrator shall approve or deny the request

1 and, if approved, certify the corrected adjusted valuations
2 resulting from such action to the State Department of Education.

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

6 (6) A school district whose state aid is to be calculated
7 pursuant to subsection (4) of this section and whose state aid
8 payment is postponed as a result of failure to calculate state aid
9 pursuant to such subsection may apply to the state board for
10 lump-sum payment of such postponed state aid. Such application may
11 be for any amount up to one hundred percent of the postponed state
12 aid. The state board may grant the entire amount applied for or
13 any portion of such amount. The state board shall notify the
14 Director of Administrative Services of the amount of funds to be
15 paid in a lump sum and the reduced amount of the monthly payments.
16 The Director of Administrative Services shall, at the time of the
17 next state aid payment made pursuant to section 79-1022, draw a
18 warrant for the lump-sum amount from appropriated funds and forward
19 such warrant to the district.

20 Sec. 5. This act becomes operative on January 1, 2001.

21 Sec. 6. Original sections 77-201, 77-1343, 77-5023, and
22 79-1016, Revised Statutes Supplement, 2000, are repealed.