

**Ninety-ninth Legislature  
First Session  
Legislation Passed in 2005**

**LB 15. Contains the emergency clause, became effective March 10, 2005.**

**Section 1.** Requires the Department of Motor Vehicles to make a written order after acting upon an objection to a determination of a motor vehicle valuation. The written order shall be mailed to the objector within seven days after the order.

The order may be appealed to the Tax Equalization and Review Commission within thirty days after the written order.

**Section 2.** Requires the county board of equalization to approve or deny a motor vehicle tax exemption within thirty days after the hearing. Requires the county board of equalization to mail or deliver its decision within seven days after the date of the decision.

The decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission within thirty days after the final decision.

**Section 3.** Amends section 77-202.04 to allow an owner applying for an exemption from property taxes, to petition the Tax Equalization and Review Commission on or before December 31 of each year, to determine the taxable status of real property for that year if there was a failure to give notice to the applicant, which prevented the applicant from timely filing a protest or an appeal.

**Section 4.** Amends section 77-1345.01 to allow an applicant for special valuation to petition the Tax Equalization and Review Commission on or before December 31 of each year, to determine whether the land will receive the special valuation if a failure to give notice prevented the applicant from timely filing a protest or an appeal.

**Section 5.** Allows any person, with the right to appeal actual value, special value or recapture value, to petition the Tax Equalization and Review Commission on or before December 31 of each year, to determine the actual value, special value or recapture value for that year if a failure to give notice prevented the person from timely filing a protest or an appeal.

**Section 6.** Amends section 77-1514 to allow the Property Tax Administrator to extend the date in section 77-5028 for the Tax Equalization and Review Commission to send the order for a county whose abstract filing date has been extended by the Property Tax Administrator.

**Sections 7 through 13.** These sections pertain to the powers, duties and the responsibilities of the Tax Equalization and Review Commission.

**LB 17. Operative date September 4, 2005.**

**Section 1.** Amends section 77-3508 to allow physicians assistants and advanced practice registered nurses to certify the physical disability of claimants for the homestead exemption.

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**LB 18. Operative date September 4, 2005.**

**Section 1.** Amends section 77-1719.03 to allow county treasurers to accept, if they desire partial payments on delinquent personal property taxes until the taxes, interest and penalties are paid in full.

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**LB 40. Contains the emergency clause and became effective on June 3, 2005, with an operative date of July 1, 2005. This legislation increases the documentary stamp tax from \$1.75 to \$2.25 for each one thousand dollars of value or fraction thereof.**

**Sections 1 through 7.** Do not pertain to the Department of Property Assessment and Taxation.

**Section 8.** Amends section 77-1327 to incorporate the increase in tax into the language as to what makes a sale for sales file purposes.

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**LB 54. Contains the emergency clause and became effective on March 10, 2005, some sections are retroactive back to July 1, 2004. This legislation clarifies the controversy concerning military general discharges (under honorable conditions).**

**Sections 1 through 15.** Do not pertain to the Department of Property Assessment and Taxation.

**Section 16.** Amends section 77-202.24 to allow a veteran who is disabled or blind, occupies, and owns a mobile home to receive a property tax exemption if discharged from military service with an honorable or general discharge (under honorable conditions).

**Section 17.** Amends section 77-3508 to allow a veteran who received an honorable or general discharge, (under honorable conditions) to receive a homestead exemption if they are totally disabled from a non-service connected accident or illness.

Also clarifies disabilities of individuals who are eligible for the homestead exemption.

**Section 18.** Amends section 77-3509 to allow certain veterans with honorable or general military discharges (under honorable conditions) or their unremarried widows or widowers a homestead exemption.

**Section 19.** Amends section 77-3513 to clarify which applicants for the homestead exemption have to apply annually and which do not.

**Section 20.** Amends section 77-3513 to clarify which claimants for the homestead exemption do not have to certify an exemption status change to the assessor.

**Section 21 through 34.** Do not pertain to the Department of Property Assessment and Taxation.

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**LB 66. Operative date September 4, 2005.**

**Sections 1 through 3.** These sections pertain to the duties and requirements of the city, village, county, property owner and the State Historic Preservation Officer.

**Section 4.** Requires the assessor to certify on the preliminary certificate of rehabilitation application, the assessed valuation of the historical property last certified to the political subdivisions or the valuation finally determined if appealed, this is also known as the base year.

**Sections 5 and 6.** These sections again pertain to the duties and requirement of the city, village, county, property owner and the State Historic Preservation Officer.

Also provides that the State Historic Preservation Officer shall within seven days after issuing a final certificate of rehabilitation to the owner, transmit a copy of the final certificate of rehabilitation to the assessor.

**Section 7.** Starting January 1, 2006 the taxable value for all real property that has received a final certificate of rehabilitation, shall be no more than the base year valuation for eight years following the issuance of the final certificate of rehabilitation.

After the expiration of the eight-year period, the valuation for assessment purposes shall be as follows:

For the first year, the base year valuation plus twenty-five percent of the difference between the base year valuation and the actual value;

For the second year, the base year valuation plus fifty percent of the difference between the base year valuation and the actual value;

For the third year, the base year valuation plus seventy-five percent of the difference between the base year valuation and the actual value; and

For the fourth year, the current year actual value.

If at any time during this period, the State Historic Preservation Officer determines that the historically significant property no longer meets the qualifications for historical recognition, he or she shall revoke the final certificate of rehabilitation by written notice to the owner and transmit a copy to the county assessor.

Upon receiving the notice of revocation of the certificate of rehabilitation from the State Historic Preservation Officer, the county assessor shall change the assessed valuation to the actual valuation for the next assessment year following the year the certificate of rehabilitation was revoked.

**Section 8.** Provides that the Property Tax Administrator may promulgate rules and regulations regarding the base year valuation.

**Section 9.** Provides that the State Historic Preservation Officer may promulgate rules and regulations regarding historically significant real property.

**Section 10.** Provides for protests of the written decisions of the State Historic Preservation Officer by the owner within thirty days of the mailing of the notice. If a protest is filed the State Historic Preservation Officer shall hear the protest within fourteen days after receipt thereof.

The State Historic Preservation Officer shall mail written notice of the final decision, to the owner and the county assessor within seven days after his or her final decision. The owner or the assessor may appeal the final decision to the district court within thirty days after the mailing of the final decision by the State Historic Preservation Officer. The State Historic Preservation Officer is required to mail the court order from an appeal to the county assessor.

**Section 11.** Amends section 77-201 to include historically significant real property that qualifies for the historic rehabilitation valuation.

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**LB 126. Section 8, 42, 50, and 55 become operative on June 15, 2006, all other sections of this legislation become operative on September 4, 2005. Requires the merger or consolidation of Class I and Class VI school districts into Class II, III or IV school districts by December 1, 2005.**

**From the county assessor and the Department's perspective, the school district re-organization and resulting school code changes will be effective for NEXT FISCAL year, July 2006 through June 2007. So, for 2006, we will decrease from approximately 490 base school districts down to approximately 250-260 base school districts, with no affiliated codes or joined high school codes.**

**However, "Unification" is a law still on the books, which allows K-12 schools to unify under a 7 year inter-local agreement with a common general fund levy. Since the individual base schools participating in the unification system can levy for other school specific functions, we will still track the base code and unified code. In other words, we would still have 2 school codes in our structure in order to track the base school and unified system, if applicable. There are currently 5 unified systems in Nebraska as of 2005.**

**Sections 1 through 6.** Are new laws that provide the dates for the beginning and ending of the school districts reorganization process. These sections also state the duties and responsibilities of the school boards, superintendents and the State Committee for the Reorganization of School Districts.

These sections also provide for the distribution of the assets and liabilities of the Class I and VI districts to the high school districts to which they will be attached. Bond territory will remain the same, which will mean that the high school districts may have several different bond territories and possibly more tax districts.

**Sections 7 through 34.** Amend present statutes in Chapters 32 and 79, to eliminate any reference to Class I and Class VI school districts as to affiliation, boundaries, and other language that is obsolete because of this legislation. Also, contain new language that pertains only to the Department of Education and school districts.

**Section 35.** Amends section 79-479 to remove obsolete language but still contains the language requiring the State Committee for the Reorganization of School Districts to still issue orders for school district boundary changes and to provide the Property Tax Administrator, assessor and the Department of Education a copy of the legal descriptions and a map.

**Sections 36 through 45.** Amends additional statutes in Chapter 79, to eliminate any inappropriate reference to Class I and Class VI school districts as to affiliation, boundaries, and other language that is obsolete and would not be applicable, because of this legislation. Also, contain new language, which pertains only to the Department of Education and school districts.

**Section 46.** Amends section 79-1016 to require the county assessor to recertify to the Property Tax Administrator, on or before December 20, 2005, the taxable value for all Class I school districts that have additional or less territory than what they had under their original affiliated system, before reorganization. The recertification will be on forms prescribed by the Property Tax Administrator. The Property Tax Administrator shall compute and recertify the adjusted valuation to each affected system and the Department of Education on or before February 1, 2006. Other dates for certifying the taxable and adjusted valuations remain the same for those Class I districts that had no changes in territory under their original affiliated system.

**Sections 47 through 53.** Amend other statutes in Chapter 79, to eliminate any reference to Class I and Class VI school districts and other language that is obsolete and would not be applicable, because of this legislation. Also contains new language, which is only applicable to the Department of Education and school districts.

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**LB 198. Operative date September 4, 2005.**

**Section 1.** Allows state aid payments to be adjusted because of transfers of property due to annexation or dissolution of a Class I school district or the reorganization involving one or more Class I school districts.

To qualify for the additional aid the school district that is losing value because of the transferred property would apply by August 20 of the year preceding the first year for which the property will not be subject to the district's general fund levy. The applicant district must also send a copy to the high school district of the affected system.

The Property Tax Administrator will recalculate the adjusted valuation as if the transferred property had not been included in the original calculation of state aid for the applicant school district.

**Section 2.** Whenever a school district or a part thereof is merged into a Class III or IV district because of city annexation the merger shall become effective on July 1, following the date of the change in the city or village boundaries. Since a school district's fiscal year is from July 1 through June 30, then any city or village annexation that results in the transfer of property to a Class III or IV city school district, such transfer, will not be recognized for school purposes until the school district's next fiscal year.

**The annexation by a city or village, will be recognized immediately for all other applicable political subdivisions (cities, fire districts, townships etc.) if it took place before levy date.**

**Section 3.** Does not pertain to the Department of Property Assessment and Taxation.

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**LB 261. Eliminates the agricultural and horticultural land valuation boards and the land manual areas. Operative date January 1, 2006.**

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**LB 263. This legislation has the emergency clause and became effective on March 10, 2005; there are certain provisions that are applicable for the remainder of the 2005 assessment year.**

**Section 1.** This section pertains to the fifty-cent tax rate limit for counties and removes the five-year limitation on the additional levy if the levy is for paying principal and interest on bonded indebtedness.

**Sections 2 and 3.** These sections refer to the definition of a parcel. Parcel is a contiguous tract of land, under the same ownership and in the same tax district and section. Parcel also includes an improvement on leased land. In addition, if several lots in the same block are under the same ownership and in the same tax district, they may be included in one parcel.

**Section 4.** This section amends section 77-202.02 to repeal the notice by the county board of equalization to the applicant and assessor. This was repealed because of duplication of notification to the applicant and assessor by the county clerk in section 77-202.04 and the county board of equalization in section 77-202.02. This double notice happened in 2004 under LB 973.

**Section 5.** Amends section 77-202.12 to allow the Property Tax Administrator the option to intervene in appeals to the TERC, that are brought by the state or political subdivision regarding the notice of intent to tax.

**Section 6.** Requires the assessor to use an income approach for all rent-restricted housing projects that receive low income tax credits under section 42 of the Internal Revenue Code. The income approach shall be consistent with the Property Tax Administrator's rules and regulations and shall comply with professionally accepted mass appraisal methods as described in section 77-112. Any tax credits given the owners shall not be considered income for purposes of the calculation but may be considered in determining the capitalization rate when capitalizing the income stream.

By **October 1, 2005** and October 1 of every year thereafter, all owners of rent restricted housing projects are required to file with the county assessor, an income and expense statement for the prior year, a description of any land use restrictions and any other information the assessor needs.

**Section 7.** Amends section 77-1303 to remove the definition of a parcel, which is now contained in sections 2 and 3.

**Section 8.** Amends section 77-1311 to clarify the duties of the assessor and repeals the five-year plan of assessment.

**Section 9.** Requires the assessor on or before **June 15, 2005** and on or before every June 15 thereafter, to develop a plan of assessment for the next year and following two years. The plan shall indicate the classes and subclasses of real property that the assessor plans to examine during the years in the report, the actions necessary to achieve the required levels of value and quality of assessment and finally the resources necessary to carry out the plan. The plan shall be presented to the county board on or before **July 31, 2005** and on or before July 31 of every year thereafter. If necessary, the assessor may amend the plan after the county board approves the budget of the county. The plan and any amendment thereto shall be mailed to the Department of Property Assessment and Taxation on or before **October 31, 2005** and on or before October 31 of every year thereafter.

**Section 10.** Requires the Property Tax Administrator by July 1, 2007, to develop, maintain, and enforce a uniform statewide structure for record identification codes, property record cards and files and other administrative reports for the property assessment process.

**Section 11.** This section provides due process to the owner and applicant for the approval or denial of applications for special valuation. On or before July 22, 2005 and on or before July 22 of every year thereafter, the assessor shall issue a notice of approval or denial to the owner and applicant if different then the owner.

When the application for special valuation is approved by the assessor, the county board of equalization shall on or before July 22, 2005 and on or before July 22 of every year thereafter, send a valuation notice showing the special valuation and recapture valuation to the owner and applicant if different then the owner.

When the assessor denies the application for special valuation, a written protest of the denial of the application may be filed within thirty days after the mailing of the notice of denial.

When a denied application for special valuation is reversed on appeal and the application is approved, the county board of equalization shall send the valuation notice showing the special valuation and recapture valuation to the owner and applicant if different then the owner within fourteen days after the date of the final order. Within thirty days after the mailing of the notice, a written protest of the special valuation or recapture valuation may be filed with the county board of equalization.

All provision of section 77-1502 are applicable to any protest filed pursuant to this section, except the dates for filing a protest, the period for hearing the protest, and the dates for mailing notices.

The county board of equalization must decide any protest filed pursuant to this section within thirty days after the filing of the protest.

The clerk shall mail a copy of any decision made by the county board of equalization on a protest filed pursuant to this section to the owner and applicant if different then the owner within seven days after the board's decision.

Any decision of the county board of equalization may be appealed to the Tax Equalization and Review Commission within thirty days after the date of the decision.

**Section 12.** This section amends section 77-1347 to allow agricultural and horticultural land that is sold to the state or a political subdivision to continue to receive the special valuation as long as the land continues to qualify as agricultural or horticultural land.

**Section 13.** Amends section 77-1504 to pertain only to undervalued and overvalued real property for the current assessment year. Omitted real property was transferred to section 77-1507.

**Section 14.** Amends section 77-1507, but does not change the intent and procedures of the original statute. Even though it may appear that, only the county board of



equalization can add reported improvements to the assessment roll from June 1 through July 25, this still pertains to reported improvements that escaped assessment by the assessor from January 1 through March 19. The assessor still has the responsibility to assess the reported improvements pursuant to sections 77-1303 and 77-1311.

**Section 15.** Amends section 77-5027 to spell out the responsibilities of the Property Tax Administrator regarding the preparation of the reports and opinion for the Tax Equalization and Review Commission. Also allows the Property Tax Administrator to make nonbinding recommendations for consideration by the Tax Equalization and Review Commission.

**Section 16.** Amends section 79-1016 by changing the date from June 30 to May 31, that a local school system or county official may file a written request with the Property Tax Administrator for a correction of the adjusted valuation due to tax list corrections. Any request will have to be filed with the Property Tax Administrator on or before **May 31, 2005** and on or before May 31 for each year thereafter.

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**LB 283. Operative date September 4, 2005.**

**Section 1.** Amends section 77-1315.01 to allow the assessor to report by August 10 to the county board of equalization any overvalued or undervalued real property, if the county has passed a resolution to extend the deadline for hearing valuation protests under section 77-1502.

**Section 2.** Amends section 77-1502 to allow the county board in any county with a population of more than one hundred thousand inhabitants to extend the deadline for hearing protests from July 25 to August 10. The resolution must be adopted before July 25 and is applicable for the current year only. When adopting the resolution the county waives its right to petition the Tax Equalization and Review Commission for a class or subclass adjustment.

The county clerk of a county that has adopted the resolution to extend the deadline for hearing protests must send notice of the board's decision on or before August 18.

**Section 3.** Amends section 77-1504 allows the county board of equalization in a county that has adopted a resolution to extend the deadline for hearing protests, to consider and correct the current year assessments of any real property that was undervalued or overvalued.

Extends the final date for hearing protests for undervalued or overvalued real property, from September 15 to September 30, if the county has adopted the resolution extending the period for hearing protests pursuant to section 77-1502.

Extends the date of filing appeals to the Tax Equalization and Review Commission on undervalued or overvalued real property, from October 15 to October 30, if the county

has adopted the resolution extending the period for hearing protests pursuant to section 77-1502.

**Section 4.** Amends section 77-1504.01 to prevent the county board of equalization in a county that has adopted a resolution extending the dates for hearing protest pursuant to section 77-1502, from petitioning the Tax Equalization and Review Commission for a class or subclass adjustment.

**Section 5.** Amends section 77-1507 to provide that omitted property, which was properly reported to the assessor, can be added to the assessment roll by the county board of equalization through August 10, if the board has adopted a resolution extending the date for hearing protests pursuant to section 77-1502.

**Section 6.** Amends section 77-1510 to allow for the extension of appeals to the Tax Equalization and Review Commission for protests pursuant to section 77-1502 from August 24 through September 10, if the county board adopted a resolution extending the date for hearing protests pursuant to section 77-1502.

**Section 7.** Amends section 77-1613.04 to allow the assessor to correct the assessment roll and the tax list after August 10 in counties that have adopted a resolution extending the deadline for hearing protests pursuant to section 77-1502.

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**LB 291. Operative date September 4, 2005.**

**Section 1.** Amends section 77-1340 to require that if a county board wants to adopt a resolution requesting the Property Tax Administrator to assume the assessment function of the county then the resolution must be adopted by October 31, 2006 and by October 31, of every other year thereafter.

Requires the Property Tax Administrator to make a decision when a resolution is adopted by a county board, on whether to recommend assumption and deliver the recommendation to the governor and the legislature by December 15, 2006 and by December 15 of every other year thereafter.

Employees of the assessor's office shall become state employees with the status of newly hired employees except as provided in section 77-1340.02. No county assessor or employee shall incur a loss of income or lose the right to participate in state sponsored benefits.

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**LB 299. Contains the emergency clause, became effective on April 8, 2005, and is applicable for the 2005 assessment year.**

**Section 1.** Amends section 77-1502 and prohibits a valuation protest from being heard by a single commissioner or supervisor of the county board of equalization.

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**LB 312. Nebraska Advantage Act. Operative date January 1, 2006.**

**Section 1.** Amends section 49-801.01 to include several sections of this act so that the sections are annually updated to reflect changes in the Internal Revenue Code.

**Section 2.** Amends sections 66-1344 of the Ethanol Development Act to exclude beneficiaries under this act from ethanol production incentives.

**Section 3.** Amends section 66-1349 to require any ethanol facility eligible for tax credits or incentives under this act to employ whenever possible workers who are residents of this state.

**Section 4.** Amends section 77-202 to include personal property exempt under Nebraska Advantage Act.

**Section 5.** Amends section 77-1229 to require anybody seeking a personal property exemption under this act to file a copy of the required forms with the county assessor.

**Sections 6 through 46.** Pertain to sales tax refunds, income tax credits and the duties, and responsibilities of the Department of Revenue and the Tax Commissioner under this act.

**Section 47.** Explains the five different tiers for which applicants may qualify for and receive various benefits under this act.

Tier 4, allows the taxpayer to receive a personal property exemption through an investment in qualified property of at least ten million dollars and the hiring of at least one hundred new employees.

The following personal property whether owned or leased, will be eligible for the tax exemption:

**Turbine-powered aircraft, including turboprop, turbojet, and turbofan aircraft, except when any such aircraft is used for fundraising for or for the transportation of an elected official;**

**Mainframe business computers used for business information processing which require environmental controls of temperature and power and which are capable of simultaneously supporting more than one transaction and more than one user plus peripheral components which require environmental controls of temperature and power connected to such computers. Computer peripheral components shall be limited to additional memory units, tape drives, disk drives, power supplies, cooling units, and communication controllers;**

**Depreciable personal property used for a distribution facility, including, but not limited to, storage racks, conveyor mechanisms, forklifts, and other property used to store or move products; and**

**Depreciable personal property in a single project if the personal property is involved directly in the manufacture or processing of agricultural products.**

Turbine powered aircraft will be eligible for exemption from the first January 1, following the date of acquisition. All other property from the first January 1, following the end of the year in which the required levels of employment and investment were exceeded through the ninth December 31 after the first year, the property qualified for the exemption.

In order to receive the exemptions, the taxpayer shall annually file a claim for exemption with the Property Tax Administrator on or before May 1. A separate claim for exemption must be filed for each project and each county in which the property has situs. A copy of the claim must also be filed with the county assessor in each county in which the taxpayer is requesting the personal property exemption.

The property Tax Administrator shall determine the eligibility of the property for the exemption and certify such on or before August 10 to the taxpayer and the affected assessor.

The determination of whether the taxpayer is eligible to obtain the exemption for personal property based upon meeting the required levels of investment and employment is the responsibility of the Tax Commissioner.

**Section 48.** Pertains to tax credits and how they are used.

**Section 49.** Provides that if the taxpayer fails to meet the required levels of investment or employment by the end of the sixth year after application, all personal property tax exempted shall be recaptured.

If the taxpayer has failed to maintain the project at the required levels of employment or investment for the entitlement period any reduction in the personal property tax, any refunds or reduction in other taxes shall be partially recaptured. One seventh of the credits, refunds and personal property tax exemption shall be recaptured. Also for each year, that the taxpayer did not maintain the levels of investment and employment the personal property exemption will be denied for alike number of years at the end of the entitlement period. Any personal property tax that becomes eligible for recapture will be considered delinquent and immediately due and payable to the county treasurer.

**Sections 50 through 72.** Again, pertain to the responsibilities and duties of the taxpayer and the Tax Commissioner.

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**LB 676.** Contains the emergency clause, became effective on March 29, 2005 and is applicable for the 2005 assessment year.

**Section 1.** Amends 76-2221 to allow any person to be exempt from the Real Estate Appraiser Act that is appointed by a county board of equalization to act as a referee pursuant to section 77-1502.01.