Summary of Legal/Legislative Actions

General Overview

The Nebraska Constitution, Article VIII, sets out the general principles upon which the property tax system is built. Specifically, section 1, subsection (1), states, "Taxes shall be levied by valuation uniformly and proportionately upon all real property and franchises as defined by the Legislature except as otherwise provided in or permitted by this constitution." The Constitution further defines different principles for real property and personal property and provides for exemptions and preferential valuations.

Real Property

The Nebraska Constitution, Article VIII, section 1, subsection (1), directs that the property taxes imposed on real property must be based upon valuations that are uniform and proportionate. However, for agricultural and horticultural land, section 1, subsection (4) provides that valuations need not be uniform and proportionate with other classes of real property but must be uniform and proportionate upon all property within the class of agricultural and horticultural land. Classification changes are addressed in the following sections for agricultural and horticultural land and personal property. The following changes were also made to the level of assessment at which the property is taxed:

a) For 1920 and prior years, property was assessed at 20% of its actual value;
b) From 1921 to 1952, property was assessed at its actual value;
c) From 1953 to 1955, property was assessed at 50% of its actual value;
d) For 1956 and 1957, property was assessed at 50% of its base value;
e) From 1958 to 1980, property was assessed at 35% of its actual value;
f) From 1981 to 1991, property was assessed at 100% of actual value;
g) From 1992 to 2006, property was assessed at 100% of actual value, except for agricultural and horticultural land which was assessed at 80% of actual value and agricultural and horticultural land receiving special valuation which was assessed at 80% of its special value; and
h) From 2007 to current, agricultural and horticultural land has been assessed at 75% of actual value and agricultural and horticultural land receiving special valuation has been assessed at 75% of its special value.

Agricultural and Horticultural Land

1972: Constitutional amendment, Article VIII, section 1, subsection (5); Legislature is authorized to enact laws providing for the valuation of land actively devoted to agricultural or horticultural uses based on its agricultural or horticultural use without regard for other purposes and uses. Subsequently, the Legislature authorized special valuation.

1984: *Kearney Convention Center v. Bd. of Equal.*, 216 Neb. 292, 344 N.W.2d 620 (1984). Commercial property owners requested that their valuation be equalized with agricultural and horticultural land which was assessed at a lower level of value.

Agricultural and Horticultural Land (continued)

1984: Constitutional amendment, Article VIII, section 1, subsection (4); agricultural and horticultural land is defined as a separate and distinct class and authorized the use of any different approach to value agricultural and horticultural land.

1985: LB 271, effective for 1986, adopted a method to value agricultural and horticultural land according to a formula based on earning capacity. Income streams were averaged by county and the capitalization rate was fixed in statute. Earning capacity is not similar to the income approach to value as used in professionally accepted appraisal practices.

1987: *Banner County v. State Bd. of Equal.*, 226 Neb. 236, 411 N.W.2d 35 (1987). While the constitution stated that agricultural and horticultural land was a separate and distinct class of property, the constitution still required that all real and tangible personal property values be uniform and proportionate. Using the earning capacity formula to value agricultural and horticultural land would have been allowable if the resulting values had been correlated to be proportionate with all other real and tangible personal property.

1989: LB 361 changed the assessment of agricultural and horticultural land so that the results could be adjusted to be uniform across county lines.

1990: Constitutional amendment was passed that defined agricultural and horticultural land as a separate class of real property and removed from the uniform and proportionate clause, meaning that it need not be uniform and proportionate with other classes of property. However, the values of agricultural and horticultural land must be uniform and proportionate within the class of agricultural and horticultural land.

1991: In response to *Banner County v. State Bd. of Equal.*, LB 404 was passed, which froze agricultural and horticultural values for tax year 1991 at the 1990 value, to give time to respond to the case. LB 320 was also passed, effective for 1992, which changed the assessment of agricultural and horticultural land so that the capitalization rate used to set value is market derived. The capitalization rate was increased 25% so that the resulting values from the income calculation correlate to 80% of market value.

1992: LB 1063 required agricultural and horticultural land to be valued at 80% of actual or market value. All other real property is valued at 100% of actual or market value.

2000: *Bartlett v. Dawes County Bd. of Equal.,* 259 Neb 954, 513 N.W.2d 810 (2000). The Supreme Court ruled that the Tax Equalization & Review Commission could not adjust by market area to achieve inter-county equalization because market areas were not defined as a class or subclass under the statutes.

2001: In response to the Bartlett case, LB 170 provided a definition of class or subclass of real property as a group of properties that share characteristics not shared by those outside the class or subclass. The classification may be based on parcel use, parcel type, location, geographic characteristics, zoning, city size, parcel size, and market characteristics that affect market value.

Agricultural and Horticultural Land (continued)

2002: LB 994 required the Property Tax Administrator to prepare and issue a comprehensive study to determine the level of value of agricultural and horticultural land that is receiving special valuation.

2005: LB 261 eliminated the agricultural and horticultural land valuations boards and the land manual areas beginning January 1, 2006.

2006: LB 808 modified the special valuation (greenbelt) provisions of Nebraska law and made a number of procedural changes, effective January 1, 2007. Generally, the changes narrowed the availability of special value, but the bill also eliminated agricultural zoning as a requirement for special value and phased out the requirements of recapture over three years. Under LB 808, agricultural and horticultural land means that an entire parcel must be primarily used for agricultural or horticultural purposes. Agricultural or horticultural purposes means that the property is used for the commercial production of any plant or animal product in a raw or unprocessed state that is derived from the science and art of agriculture, aquaculture, or horticulture.

2006: LB 968 decreased the assessment percentage for agricultural and horticultural land from 80% to 75% of actual value beginning January 1, 2007.

2008: LB 777 redefined agricultural and horticultural land, effective January 1, 2009. These changes were made in response to issues that developed following the implementation of LB 808 in 2007. LB 777 amended Neb. Rev. Stat. § 77-1359 so that any land associated with any building or enclosed structure located on a parcel will not be considered agricultural and horticultural land. However, the remaining land on the parcel after the exclusion of the land associated with the buildings must be primarily used for agricultural and horticultural purposes in order to be valued as agricultural and horticultural land.

2013: *Krings v. Garfield County Bd. of Equal., Ewald, and Sorensen*, 286 Neb. 352, 835 N.W.2d 750 (2013). The Supreme Court ruled that the constitutional provision requiring equalization between agricultural and horticultural land and other classes of property found in *Kearney Convention Center* and *Banner County v. State Bd. of Equal.* had been changed, and that the class of agricultural and horticultural land must be taxed by valuation uniformly and proportionately within the class of agricultural and horticultural land, but is not required to be uniform and proportionate with the other classes of land.

Personal Property

1967: After the November 1966 vote, which changed the Constitution, the Legislature repealed the head and poll taxes, exempted household goods, clothing and other personal items, and exempted certain types of intangible personal property such as stocks, bonds and certificates of deposit.

1970: A constitutional amendment gave approval to the Legislature to classify and exempt personal property.

Personal Property (continued)

1972-1974: The Legislature partially exempted from taxation agricultural income-producing machinery and equipment; business inventory; livestock; grain and seed; and poultry, fish and fur-bearing animals. The Legislature provided for a 12.5% exemption of actual value for calendar year 1973. The exemption increased by 12.5% each year until a total of 62.5% was exempt in 1977. Political subdivisions were reimbursed for the tax revenue loss resulting from these exemptions. In 1974, the Nebraska Supreme Court ruled that personal property tax exemptions were constitutional, *Stahmer v. State*, 192 Neb. 63, 218 N.W. 2d 893 (1974).

1977-1981: The Legislature completely exempted from taxation the classes of personal property that had been partially exempted except business inventory and livestock, which were fully exempted in calendar year 1978. The Legislature appropriated $58.6 million as personal property relief to reimburse local governments for the losses resulting from these exemptions. Business inventories became totally exempt for calendar year 1979 and a reimbursement of $62.2 million was appropriated for fiscal year 1979-1980. Livestock became totally exempt in calendar year 1980 and a reimbursement of $70 million was appropriated for fiscal year 1980-1981.

1982: The Legislature eliminated the Personal Property Tax Relief and the Government Subdivision Fund. LB 816 provided for the distribution of aid to community colleges, natural resource districts, incorporated municipalities, counties, and for aid to school districts from the School Foundation and Equalization Fund.

1985: The Employment and Investment Growth Act (LB 775) was enacted by the Legislature and provided new economic development incentives and benefits such as sales tax exemption of manufacturing machinery and equipment, income tax credits, and exemption of personal property tax for qualifying equipment.

1986: Car line companies began requesting that their personal property be equalized with all personal property, *Trailer Train Company v. Leuenberger*, 885 F.2d 415 (8th Cir. 1988), *aff'g*, CV87-L-29 (D. Neb. 1987). Citing protection under the 1976 Federal Railroad Revitalization and Regulatory Reform Act (4-R Act), the car line companies argued that since much of the personal property in Nebraska was exempted from taxation by the Legislature (inventory, agricultural machinery and equipment, earth-moving equipment, etc.), their personal property was being taxed to a greater degree than other personal property in Nebraska. The 8th Circuit Court of Appeals ruled that the Nebraska property tax on personal property of car companies violated the 4-R Act. The State was prohibited from collecting property tax on car companies.

1987: Railroads filed suit against Nebraska arguing that the property tax on railroad personal property violated the 4-R Act. The litigation was settled in 1989, before reaching trial, resulting in the railroad companies paying tax on 25% of their value attributed to personal property for 1987, 1988, and 1989.

1988: LB 1091 created a one-time appropriation to reimburse local governments for any losses attributable to the railroad's 4-R Act litigation that exceeded 1% of expected property tax dollars. After line item vetoes and partial overrides, the amount appropriated to the fund from the Cash Reserve Fund totaled $7.7 million.

Personal Property (continued)

1988-1990: Centrally assessed companies such as pipelines, telecommunications, and airlines appealed to the State Board of Equalization requesting equalization of their personal property with the exempt property of car companies and railroads, The companies were denied by the State Board and appealed to the Nebraska Supreme Court based on the Nebraska constitutional requirement of uniform and proportionate values for the levy of property taxes.

1989: The Nebraska Supreme Court ruled in favor of four pipeline companies for the 1988 tax year, and the State Board equalized their personal property value to zero. In July 1991, the Nebraska Supreme Court ruled on the tax year 1989 equalization requests of centrally assessed companies. The court found that equalization was not an appropriate remedy. All previous personal property exemptions were declared unconstitutional, effectively overturning the 1974 decision allowing personal property exemptions. As a result of the court's decision on the 1989 cases the State Board reduced the 1990 certified values of the appealing centrally assessed companies by 18.81%. *See* *Northern Natural Gas Co. v. State Bd. of Equal. and Assessment*, 232 Neb. 806 (1988) and *Trailblazer v. State Bd. of Equal. and Assessment*, 232 Neb. 823 (1989).

1991: LB 829 exempted all personal property from property tax for 1991 only and reimbursed local governments for the loss using a series of revenue-raising proposals including a depreciation surcharge, a temporary reduction in the sales tax collection fee, extending the sales tax to manufacturing energy, and a one-year increase in the corporate occupation tax. The total cost was $120 million.

1992: Constitutional amendment LR 219CA was adopted and removed personal property from the uniform and proportionate clause of the constitution. It authorized personal property to be either taxed on actual value or net book value while allowing reasonable classifications to be exempt and set apart a classification for the properties of entities that are protected by federal law, such as railroads. The Legislature passed LB 1063 and the "net-book" concept of taxing depreciable tangible personal property was adopted, rather than taxing personal property based on actual value.

1993: The Nebraska Supreme Court ruled on the appeal of the State Board of Equalization and Assessment's action which reduced the 1990 certified values of the appealing centrally assessed companies by 18.81%. The court upheld the State Board of Equalization's remedy which was to refund the difference in tax the appellants would have been required to pay if all of the exempt property in question had been placed on the tax rolls and taxed. *See* *MAPCO Ammonia Pipeline, Inc. v. State Bd. of Equal. and Assessment*, 242 Neb. 263 (1993).

1994: LB 961 exempted livestock from the personal property tax.

2005: LB 312, the Nebraska Advantage Act, was passed, providing new economic development incentives and replaced Employment and Investment Growth Act (Laws 1985, LB 775). Benefits include sales tax exemption of manufacturing machinery and equipment, income tax credits, and exemption of personal property tax for an investment of at least $10 million and the hiring of at least 100 new employees. Eligible personal property includes certain aircraft, main frame business computers for business information processing, depreciable personal property used for distribution facilities to store or move products, and depreciable personal property in a single

Personal Property (continued)

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

2007: LB 334 modified definitions to exclude trade fixtures from the definition of real property. Trade fixtures are now defined as personal property.

2008: LB 1027 provided a personal property exemption for agricultural and horticultural machinery and equipment utilized by a qualified beginning farmer or livestock producer in their operation. The beginning farmer must be certified by the Department of Agricultural and apply for the personal property exemption with the county assessor on or before December 31 in the year preceding the exemption. The beginning farmer must file their personal property return on or before May 1, and if the exemption application is approved, the county assessor may exempt taxable agricultural machinery and equipment up to a maximum of $100,000 in any one year. A properly granted exemption will continue for period of three years if a personal property return is filed on or before May 1 of each year.

2010: LB 1048 exempted property used directly in the generation of electricity using wind as the fuel source from property taxes. Instead of a property tax, wind energy producers will pay a 'nameplate capacity tax' which is a tax of $3,518 per megawatt or fraction thereof. The Department of Revenue enforces reporting and collecting of the nameplate capacity tax. All proceeds from the nameplate capacity tax are paid to the county treasurer of the county where the facility is located. The county treasurer distributes the proceeds of the nameplate capacity tax using the same allocation formula used to distribute property taxes to the political subdivisions in the tax district(s) in which the wind energy facility is located.

2011: LB 360 modified the original legislation, LB 1048 (passed in 2010), pertaining to wind generation facilities. This legislation exempts depreciable tangible personal property used in the generation of electricity using wind as the fuel source and allows the county assessor to locally assess any real property. The land associated with the facility will continue to be assessed as it was prior to the facility being built. The operative date for this legislation was retroactive to January 1, 2010.

2011: In *Vandenberg v. Butler County*, 281 Neb. 437 (2011), the Nebraska Supreme Court held that an irrigation pump was a trade fixture within the meaning of Neb. Rev. Stat. § 77-105. The application of the three-part test found in *Northern Natural Gas Co. v. State Bd. of Equal. and Assessment*, 232 Neb. 806 (1989), was expressly overruled for taxation purposes. The Court stated that "…§ 77-105 clearly controls the issue of classifications of fixtures for taxation purposes." There are two considerations in determining whether an item of property is a trade fixture: whether it is "machinery or equipment" and whether it "used directly in commercial, manufacturing, or processing activities." The Court also found that agricultural production is a "commercial activity" within the meaning of § 77-105.

2015: LB 259 created the Personal Property Tax Relief Act (Act), codified in Neb. Rev. Stat. §77-1229, which provides for an exemption of the first $10,000 of tangible personal property value for each tax district in which a personal property return is filed by a taxpayer. Failure to report tangible personal property on the personal property return will result in a forfeiture of the

Personal Property (continued)

exemption for any personal property not timely reported for that year. The Act provides an exemption factor for centrally assessed taxpayers. It also provides a reimbursement mechanism for any taxes lost by the county and political subdivisions as a result of the exemption.

2016: LB 275 changed the Nebraska net book value to be based on the year placed in service, rather than the year of acquisition. The bill also included trailers and semitrailers with motor vehicles as a class of property exempt from property tax.

Other Property "Assessment Structure" Changes

1995: LB 490, effective for 1996, changed the property assessment calendar so that statewide equalization was completed before property valuation notices are sent to individuals. An individual may then protest his or her property valuation to the county board of equalization.

1995: LB 490, effective for 1996, created the Tax Equalization and Review Commission to replace the State Board of Equalization and Assessment for purposes of equalization of property valuations. In addition to its constitutional statewide equalization duties, the Commission replaced the district court for the purpose of hearing individual appeals from decisions of the Property Tax Administrator, Department of Motor Vehicles, or the county board of equalization involving the valuation and taxation of property. Commissioners are appointed by the Governor and serve six-year terms.

1995: LB 490, effective for 1996, established acceptable ranges for the level of value for each class of property for purposes of the Tax Equalization and Review Commission's statewide equalization of real property. The acceptable ranges for the level of value were then 74 to 80% of actual value for agricultural land and 92 to 100% for all other real property.

1995: LB 490, effective for 1996, also created the position of Property Tax Administrator as a statutory position to oversee the Property Tax Division of the Department of Revenue. The powers and duties of the Tax Commissioner relating to valuation and taxation of property were transferred to the Property Tax Administrator. The Property Tax Administrator is appointed by the Governor and approved by the Legislature to serve a six-year term.

1997: LB 269, effective July 1, 1998, gave the county board authority to vote by resolution to have the Property Tax Administrator assume the county assessment function. The state would become fiscally responsible for the assessment functions in that county. The county assessor and employees of the assessor's office in those counties became state employees. Currently, nine out of 93 counties have turned the assessment function over to the state.

1998: LR 45CA placed four separate constitutional amendments on the 1998 general election ballot as follows: (1) strike the requirements that motor vehicle taxes be distributed to local governments in proportion to property taxes levied, (2) provide for the merger or consolidation of cities and counties, (3) limit the property tax exemption for government property to property used for a public purpose, and (4) strike all references to townships in the Constitution. The first three amendments succeeded while the fourth failed.

Other Property "Assessment Structure" Changes (continued)

1999: LB 36, 1999 First Special Session, made the former Property Tax Division of the Department of Revenue a separate agency called the Department of Property Assessment and Taxation, directed by the Property Tax Administrator.

2001: LB 271 passed in 1999 and implementation was delayed until 2001. Beginning January 1, 2001, property of the state and its governmental subdivisions that is not used or not being developed for a public purpose is taxable, based on Constitutional Amendment to Article VIII, section 2, subsection (1). Previously, all governmentally owned property, no matter how used, was exempt from property taxation.

2003: Following the implementation of LB 271, a number of political subdivisions took issue with the taxation of property and appealed the taxability of certain governmentally owned property. In 2003, both the Nebraska Supreme Court and Nebraska Court of Appeals issued decisions on this issue. See, *City of Alliance v. Box Butte Cty. Bd. of Equal.*, 265 Neb. 262 (2003), *Brown Cty. Ag. Society v. Brown Cty. Bd. of Equal.*, 11 Neb. App. 642 (2003), *City of York v. York Cty. Bd. of Equal.*, 266 Neb. 297 (2003) [York I], *City of York v. York Cty. Bd. of Equal.*, 266 Neb. 305 (2003) [York II], and *City of York v. York Cty. Bd. of Equal.*, 266 Neb. 311 (2003) [York III]. Although each case deals with a separate factual situation, it appears that the courts have taken a fairly expansive view of what constitutes a "public purpose" under LB 271. If, for example, the political subdivision is authorized to use its property in a particular way, that use constitutes a public purpose for the purposes of being exempt from property taxes, even if the property is also being used for an ongoing nonpublic use. Further, if a public purpose is advanced by the ownership of the property by the political subdivision, that use will be deemed to be predominant, even if there is another, ongoing nonpublic use being made of the property. The courts did not specifically address the question of whether the mere generation of proceeds for the political subdivision through the use of its property would be sufficient to maintain the exempt status of the property.

2005: LB 66 passed which provides for a valuation preference rather than a complete exemption for historically significant real property that has been renovated or rehabilitated. The law limits the preference to properties deemed "historically significant" as opposed to any real property over a certain age. There is an application and approval process with the State Historical Preservation Officer (SHPO) for the real property to be deemed historically significant and revolves around the National Register of Historic Places. A "preliminary certificate" must be obtained and is the step that sets the "base value" for the property. When the work on the real property is complete, a certificate of rehabilitation is issued and the property is to be assessed at no more than its base value for eight years. In years 9-11, market value is increased incrementally until at the beginning of year 12, the value for the property is at actual value. The valuation benefit only applies to real property for which a final certificate of rehabilitation has been issued (by the SHPO) after January 1, 2006.

2006: LB 968 decreased the assessment percentage for agricultural and horticultural land from 80% to 75% of actual value beginning January 1, 2007. For purposes of the Tax Equalization and Review Commission's statewide equalization of agricultural and horticultural land, the acceptable range for the level of value was changed to a range of 69% to 75%.

Other Property "Assessment Structure" Changes (continued)

2007: LB 334 merged the Department of Property Assessment and Taxation with the Department of Revenue and established a Property Assessment Division. The legislation amended more than 150 sections of statutes to strike references to the former "Department of Property Assessment and Taxation" and "Property Tax Administrator" and replaced them with references to the "Department of Revenue" and "Tax Commissioner." The Property Assessment Division is directed by the Property Tax Administrator, who is appointed by the Governor, with the approval of a majority of members of the legislature. The Property Tax Administrator serves under the general supervision of the Tax Commissioner.

2007: LB 334 also required county assessors to review properties on a cycle to assure that all parcels have been inspected and reviewed at least once every six years.

2008: LB 965 amended Neb. Rev. Stat. § 76-214 so that beginning January 1, 2009, the Real Estate Transfer Statement, Form 521, became a single part form, rather than a multi-part form. The Real Estate Transfer Statement, Form 521, is required to be filed with the Register of Deeds when a deed to real estate, memorandum of contract, or land contract is presented for recording.

2009: LB 121 returned the nine state assessment offices back to the counties. All counties were returned by June 30, 2013.

2011: LB 384 requires county assessors in counties with over 150,000 inhabitants to conduct preliminary hearings with the taxpayer regarding the assessed valuations on their real property, beginning in tax year 2014. This legislation also reduced the number of commissioners on the Tax Equalization and Review Commission from four to three.

2012: LB 902 amended Neb. Rev. Stat. § 77-202(1) to exempt any property beneficially owned by a governmental unit and used for a public purpose from property tax if the property purchased is subject to a lease-purchase agreement, financing lease, or other instrument which transfers title of the property to the governmental unit upon payment of the debt used to finance the project. The purchase may be subject to property tax if the acquisition cost of the property exceeds the greater of 0.06% of the total actual value of real and personal property of the governmental unit or $50,000, and the acquisition is not approved by a vote of the people that reside within the governmental unit in which the property is located.

2013: *KAAPA Ethanol v. Bd. of Supervisors of Kearney Cty.*, 285 Neb. 112, 825 N.W.2d 761 (2013). A taxpayer's decision to list real property as personal property, while yielding "the harsh result of double taxation," is the result of a mistake of law. The refund claim statute is a codification of the common-law rule that refunds of taxes levied upon and paid are only authorized with respect to mistakes of fact.

2015: LB 356 Established the Rent-Restricted Housing Projects Valuation Committee (Committee) and requires the use of the income approach in valuing rent-restricted housing projects, which are projects consisting of five or more houses or residential units receiving an allocation of federal low-income housing tax credits under Section 42 of the Internal Revenue Code. The Committee develops a market-derived capitalization rate to be used by county assessors when using the income approach to value rent-restricted housing projects. The

Other Property "Assessment Structure" Changes (continued)

Committee may determine a different capitalization rate for different areas of the state if it is deemed appropriate. The owner of a rent-restricted housing project must file an income and expense statement with both the Committee and the county assessor on or before October 1 of each year. If the statement is not timely filed, the county assessor may use any professionally accepted mass appraisal technique for determining actual value of the property. If actual value is not achieved using the income approach, the county assessor may present these findings to the county board of equalization, which may petition the Tax Equalization and Review Commission (Commission) no later than January 31 of each year for use of another professional accepted mass appraisal technique in determining actual value. The Tax Commissioner may also file a similar petition with the Commission.

2015: LB 414 Fraternal Benefit Societies, as organized and licensed under Neb. Rev. Stat. §§ 44-1072 to 44-10,109, are included in the definition of "charitable organization." Such organizations are exempt from property taxes pursuant to Neb. Rev. Stat. § 77-202.

2017: *Cty. of Franklin v. Tax Equal. and Review Comm'n*, 296 Neb. 193, 892 N.W.2d 142 (Neb. 2017), *Cty. of Douglas v. Neb. Tax Equal. and Review Comm'n*, 296 Neb. 501, 894 N.W.2d 308 (Neb. 2017), and *Cty. of Webster v. Neb. Tax Equal. and Review Comm'n*, 296 Neb. 751, 896 N.W.2d 887 (Neb. 2017). The Supreme Court heard three appeals of the Commission's orders to adjust the value of subclasses of real property during its annual meeting for statewide equalization. In all three cases, the Court found it reasonable for the Commission to rely on reports and opinions of the Property Tax Administrator when such reports and opinions were competent evidence of the level of value and quality of assessment in the county. Conversely, it was not reasonable for the Commission to fail to rely on the reports and opinions when such reports and opinions were competent evidence of the level of value and quality of assessment. Finally, the Court found that the Property Tax Administrator's policies regarding the inclusion of sales outside a county's boundaries for the ratio study required by Neb. Rev. Stat. §§ 77-1327 and 77-5027 were reasonable, and that such "borrowed sales" could be competent evidence of the level of value and quality of assessment within a county. The Court determined that in order for the statistics used by the Commission in determining the level of value, they had to be reliable and representative, as determined by professionally accepted mass appraisal standards.

Other Property "Tax Policy" Changes

1999: LB 881 (tax credit for 2000) also provided $25 million for the Relief to Property Taxpayers Act. The Act provided direct local property tax relief to all taxable real property owners in the form of a tax credit that is displayed on the tax statement. The credit, for year 2000, provided $30.54 in property tax relief for every $100,000 in taxable value. In other words, for every $100,000 in taxable value, the state will pay the local taxing subdivisions $30.54 that otherwise would have been collected from the taxpayer. Due to state budget constraints, the Legislature did not appropriate any monies to the Relief to Property Taxpayers Act in 2001 and subsequently repealed the Act in 2002.

2006: Effective June 15, 2006, in accordance with final orders issued pursuant to LB 126 (2005), all Class I school districts (elementary grades only) and Class VI high school districts (high school grades only) were dissolved and merged into school systems that offer kindergarten through grade 12. Nebraska's approximate 469 individual base school districts decreased to 254

Other Property "Tax Policy" Changes (continued)

school systems for 2006. This legislation was repealed by voters in the 2006 November election but it did not automatically reinstate the school districts as they existed prior to implementation of LB 126. Instead, the 2007 legislative session provided the enabling statutory language for Class I or Class VI schools to exist or be created again.

2007: LB 367 created the Property Tax Credit Act, codified in Neb. Rev. Stat. § 77-4209, which provides direct local property tax relief to all taxable real property owners in the form of a tax credit that is displayed on the tax statement. The real property tax credit is based upon the valuation of each parcel of real property compared to the valuation of all real property in the state. The total amount of credit available for statewide distribution is $105 million for year 2007 and $115 million for year 2008. The credit, for year 2007, provided $83.22 in property tax relief for every $100,000 in taxable value. In other words, for every $100,000 in taxable value, the state pays the local taxing subdivisions $83.22 that otherwise would have been collected from the taxpayer.

2009: LB 315 funded the Property Tax Credit Act for two additional years. The total amount of credit available for statewide distribution was $115 million for 2009 and $115 million for 2010.

2011: LB 374 funded the Property Tax Credit Act for two additional years. The total amount of credit available for statewide distribution was $115 million for 2011 and $115 million for 2012.

2013: LB 195 funded the Property Tax Credit Act for two additional years. The total amount of credit available for statewide distribution was $115 million for 2013 and $115 million for 2014.

2014: LB 905 provided an additional $25 million for two additional years. The total amount of credit available for statewide distribution was $140 million for 2013 and $140 million for 2014.

2015: LB 657 provided property tax relief in the amount of $204 million for tax years 2015 and 2016.

2016: LB 958 provided an additional $20 million of funding for the property tax relief fund for a total of $224 million for tax year 2017. It also changed the calculation of the credit so that the credit will be allocated as if agricultural and horticultural land, and agricultural and horticultural land receiving special valuation, were valued at 120% of their taxable value.

School Adjusted Value

1994: LB 1290 required the adjusted value or full assessable property valuations to be determined for each school district, by the Property Assessment Division, for use in the school aid formula. This provision "levels the playing field" and prevents a school district from receiving an unfair advantage in the school aid formula if their property valuations are at a lower level than other school districts.

2006: LB 968 changed the required level of assessment for agricultural and horticultural land from 80% to 75% of actual value for purposes of the 2006 school adjusted value, which is used in calculating school aid for 2007-2008. This change was intended to make the agricultural and

School Adjusted Value (continued)

horticultural land value used in the 2007-2008 school aid formula consistent with the "assessed" value of agricultural and horticultural land in 2007 which moves to 75% of actual value.

2008: LB 988 amended Neb. Rev. Stat. § 79-1016, changing the required level of assessment for purposes of "adjusted value" used in the state's school aid formula. The Property Tax Administrator is required to adjust the taxable value of each school district so that: 1) all real property, other than agricultural and horticultural land, is adjusted to 96% *(instead of 100%)* of actual value; and 2) all agricultural and horticultural land is adjusted to 72% *(instead of 75%)* of actual value, and all agricultural and horticultural land that receives special valuation pursuant to Neb. Rev. Stat. § 77-1344 is adjusted to 72% *(instead of 75%)* of the value of the land for its agricultural or horticultural purposes only.

Motor Vehicles

1997: LB 271 changed the method for taxation of motor vehicles to a uniform, statewide tax and fee system rather than according to value. The fee is a nominal amount, generally between $5 and $30 and the proceeds are distributed to cities and counties based on the Highway Trust Fund dollars. The motor vehicle tax is determined from a table that begins with the manufacturer's suggested retail price (MSRP) and declines each year thereafter, using a table found in state law.

Responsibility for motor vehicle taxation was shifted from the county assessor to the county treasurer.

1998: LR 45CA amended the constitution, eliminating the requirement that motor vehicle taxes be distributed to local governments in proportion to property taxes levied.

1999: LB 142 implemented part of LR 45CA by providing that the proceeds from the motor vehicle tax be distributed 60% to the school district where the vehicle is registered, 22% to the county, and 18% to the city except in Douglas County where the city-county shares are reversed.

Homestead Exemption

1969: The Homestead Exemption Act was created by the Legislature to provide direct property tax relief to individual owners of residential property. This law, with some exceptions, provided for an exemption of $800 of actual value for residences valued at $4,000 or more. A homestead is defined as a residence, and the land surrounding, not to exceed one acre. To qualify, the homestead must be occupied by the owner of record on January 1 of the year for which application for exemption is made. The exemption applies to all or part of the local property taxes levied against the home, with the state reimbursing local governments from general fund revenues for the taxes exempted under the program. In 1971 and 1973, the legislature increased the benefits of the homestead exemption for specific categories of veterans, disabled, and elderly homeowners with limited income.

1983: LB 396 eliminated a general homestead exemption that exempted the first $800 of value of a homestead valued at $4,000 or more. The cost savings was $4.7 million.

Homestead Exemption (continued)

1984: LB 809 adopted a general homestead exemption of $3,000 and required property tax statements to reflect that the state was financing the exemptions. This was estimated to cost about $18 million. However, the program was delayed and then repealed after one year, never having been implemented.

1986: LB 1268 provided for a sliding scale for homestead exemption benefits for elderly and disabled beneficiaries as income increased.

1988: LB 1105 eliminated the sliding scale of benefits for homestead exemptions and provided that those with income below the filing threshold of $10,400 received the full $35,000 exemption.

1989: LB 84 granted an 8.5% reduction in property valuation, or a $5,400 general homestead exemption for 1989 only; this reduction was financed by the state. Total cost was $114 million.

1994: LB 802 enacted significant changes to the homestead exemption program: redefined household income, increased the amount of exemption, required the filing of an income statement, placed limits on the value of the home for which an exemption application is made, and implemented a sliding scale that allows partial exemption as income increase. Overall, these changes were revenue neutral.

1999: LB 179 increased the homestead exemption income eligibility amounts and expanded the definition of disability for purposes of eligibility. The cost of the expansion was $8.8 million.

2004: LB 986 changed the definition of multiple amputees for certain veterans eligible for exemption for applications filed in 2004 and after.

2006: LB 968 made changes to increase the benefits available under the homestead exemption program, effective for 2007. The exempt amount was increased from the greater of $40,000 or 80% to the greater of $40,000 or 100% of the average residential home value in the county. For disabled veteran beneficiaries, the exempt amount increased from the greater of $50,000 or 100% to the greater of $50,000 or 120% of the average residential home value. The maximum value also increased from $95,000 or 150% to $95,000 or 200% of the average residential home value. The maximum value for handicapped and veteran claimants also increased a comparable amount.

2009: LB 94 made changes to allow applicants for the homestead exemption to file an application or certification up until the first half real estate taxes become delinquent if they missed the June 30 filing dates because of a medical condition.

2009: LB 302 made changes to allow the homestead exemption claimant to transfer a homestead exemption to a new homestead without having to sell the original homestead.

2014: LB 986 increased income eligibility amounts for the homestead exemption program for tax years on or after 2014. Beginning January 1, 2015, homeowners with developmental disabilities are eligible for the homestead exemption. Applicants must provide certification from the Nebraska Department of Health and Human Services regarding their developmental disabilities.

Homestead Exemption (continued)

2014: LB 1027 Beginning January 1, 2015, a disabled veteran with a 100% service-connected disability and drawing compensation from the U.S. Department of Veterans Affairs, or the unremarried widow or widower of this veteran, is eligible for a 100% homestead exemption regardless of income or homestead value. An unremarried widow or widower of any veteran who died because of a service-connected disability is also eligible for the homestead exemption regardless of income or homestead value. A certification of the status of the veteran or widow(er) must be provided by the U.S. Department of Veterans Affairs when applying for the exemption.

2015: LB 591 Beginning January 1, 2016, the definition of household income for homestead exemption includes any carryforward of a net operating loss when deducted for federal income tax purposes.

2016: LB 683 Beginning January 1, 2017, the homestead exemption statutes were amended to allow a surviving spouse of a qualified veteran, who remarries after attaining the age of 57 years, to qualify.

2017: LB 20 Beginning January 1, 2018, removed the annual disability certification for veterans totally disabled by a nonservice connected accident or illness. LB 217 authorized the delivery of homestead forms for prior-year applicants in the manner approved by the Tax Commissioner and authorized that interest does not accrue on property that has had its homestead exemption rejected or reduced until 30 days after certification by the county board of equalization.

Documentary Stamp Tax

All transfers of beneficial interest in, or legal title to, real estate are subject to a documentary stamp tax based upon the value of the real estate transferred. The tax is due at the time the deed is offered for recording unless specifically exempt pursuant to Neb. Rev. Stat. § 76-902.

1965: Chapter 463, established the documentary stamp tax. The tax is collected by the register of deeds and remitted to the Department of Revenue. The initial rate was $0.55 per each $500 of value or fraction thereof. The register of deeds retained 25% of the proceeds of the sale of stamps to be placed into the county general fund.

1985: LB 236 raised the rate to $1.50 per each $1,000 of value or fraction thereof. The register of deeds retained 33.33% of the proceeds of the sale of stamps to be placed into the county general fund.

1992: LB 1192 raised the rate to $1.75 per each $1,000 of value or fraction thereof. The register of deeds retained $0.50 from each $1.75 collected to be placed into the county general fund.

2005: LB 40 raised the rate to $2.25 per each $1,000 of value or fraction thereof. The register of deeds retains $0.50 from each $2.25 collected to be placed into the county general fund. For each remaining $1.75 remitted to the state, $0.25 is credited to the Homeless Shelter Assistance Trust Fund, $1.20 is credited to the Affordable Housing Trust Fund, and $0.30 is credited to the Behavioral Health Services Fund.

Documentary Stamp Tax (continued)

2012: LB 536 amended Neb. Rev. Stat. § 76-902 to provide additional documentary stamp tax exemptions. Deeds between ex-spouses that convey any rights to property acquired or held during the marriage, death deeds and revocations of death deeds, and certified or authenticated death certificates pertaining to death deeds are now exempt from documentary stamp tax.