

LEGISLATIVE BILL 490

Approved by the Governor June 1, 1995

Introduced by Kristensen, 37

AN ACT relating to revenue and taxation; to amend sections 23-1611, 46-133, 77-202.02, 77-202.04, 77-202.05, 77-202.06, 77-202.07, 77-202.08, 77-202.25, 77-367, 77-369, 77-371, 77-376, 77-415, 77-416, 77-418, 77-419, 77-420, 77-421, 77-425, 77-428, 77-508.01, 77-601, 77-602, 77-605, 77-606, 77-607, 77-608, 77-609, 77-611, 77-612, 77-616, 77-621, 77-623, 77-801, 77-802, 77-803, 77-804, 77-1216, 77-1245, 77-1247, 77-1249.01, 77-1250, 77-1250.02, 77-1250.03, 77-1250.04, 77-1250.05, 77-1301.02, 77-1301.03, 77-1301.04, 77-1301.06, 77-1301.08, 77-1301.14, 77-1301.15, 77-1306.01, 77-1314, 77-1325, 77-1329, 77-1330, 77-1331, 77-1332, 77-1334, 77-1336, 77-1339, 77-1340, 77-1346, 77-1371, 77-1507, 77-1510.01, 77-1511, 77-1513, 77-1515, 77-1606, 77-1613.02, 77-1615.01, 77-1623, 77-1704.01, 77-1705, 77-1738, 77-1749, 77-1750, 77-1760, 77-1763, 77-1766, 77-3519, 77-3902, 77-3903, 77-3907, 77-3908, 79-3809, 79-3819, 79-3823, 81-15.102.01, 81-15.113.01, and 84-920, Reissue Revised Statutes of Nebraska, sections 13-504, 18-2713, 76-214, 77-120, 77-202.01, 77-202.03, 77-366, 77-375, 77-399, 77-3.113, 77-3.114, 77-507.01, 77-508, 77-509, 77-603, 77-604, 77-615, 77-680, 77-681, 77-682, 77-683, 77-684, 77-685, 77-686, 77-687, 77-689, 77-690, 77-691, 77-693, 77-1229, 77-1233.04, 77-1239, 77-1239.01, 77-1239.02, 77-1240.01, 77-1240.04, 77-1248, 77-1249, 77-1301.01, 77-1301.07, 77-1301.12, 77-1301.13, 77-1311, 77-1327, 77-1333, 77-1342, 77-1360.01, 77-1361, 77-1362, 77-1363, 77-1364, 77-1367, 77-1376, 77-1377, 77-1381, 77-1384, 77-1502, 77-1503.01, 77-1504, 77-1510, 77-1514, 77-1613.01, 77-1735, 77-1736.06, 77-1775, 77-1775.01, 77-3438, 77-3904, 77-3905, and 77-3906, Reissue Revised Statutes Supplement, 1994, section 77-1716, Reissue Revised Statutes of Nebraska, as amended by section 31, Legislative Bill 452, Ninety-fourth Legislature, First Session, 1995, section 77-1601, Revised Statutes Supplement, 1994, as amended by section 1, Legislative Bill 167, Ninety-fourth Legislature, First Session, 1995, and section 16, Legislative Bill 452, Ninety-fourth Legislature, First Session, 1995; to adopt the Tax Equalization and Review Commission Act; to create the position of Property Tax Administrator; to transfer certain powers and duties of the Tax Commissioner and Department of Revenue to the Property Tax Administrator; to change and eliminate provisions relating to assessment, valuation, and taxation of property; to harmonize provisions; to provide an operative date; to provide severability; to repeal the original sections; and to outright repeal sections 77-1373, 77-1747, 77-1751, 77-1752, 77-1753, 77-1754, 77-1755, 77-1755.01, 77-1756, 77-1757, 77-1758, 77-1768, 77-1769, and 77-1770, Reissue Revised Statutes of Nebraska, and sections 77-1372 and 77-1506.02, Revised Statutes Supplement, 1994.

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

Section 1. Sections 1 to 21 of this act shall be known and may be cited as the Tax Equalization and Review Commission Act.

Act: Sec. 2. For purposes of the Tax Equalization and Review Commission

(1) Commission means the Tax Equalization and Review Commission;

(2) Commissioner means a member of the commission; and

(3) Special master means a person appointed by the commission pursuant to section 9 of this act.

Sec. 3. The Tax Equalization and Review Commission is created. The Tax Commissioner has no supervision, authority, or control over the actions or decisions of the commission relating to its duties prescribed by law. The commission shall have three commissioners, one from each congressional district, who are appointed by the Governor with the approval of a majority of the members of the Legislature. One of the commissioners shall be designated by the Governor as chairperson.

The term of the commissioner from district 1 expires two years after the first appointment under this section, the term of the commissioner from district 2 expires four years after the first appointment under this section, and the term of the commissioner from district 3 expires six years after the

first appointment under this section. After the initial terms are completed, each term shall be for six years and shall expire on a staggered basis every two years.

A commissioner may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless notice and hearing are expressly waived in writing by the commissioner.

Sec. 4. (1) Each commissioner shall be a qualified voter, taxpayer, and resident of the state.

(2) Each commissioner shall devote his or her full time and efforts to the discharge of his or her duties and shall not hold any other office under the laws of this state, any city or county in this state, or the United States Government while serving on the commission. Each commissioner shall possess:

(a) Appropriate knowledge of terms commonly used in or related to real property appraisal and of the writing of appraisal reports;

(b) Adequate knowledge of depreciation theories, cost estimating, methods of capitalization, and real property appraisal mathematics;

(c) An understanding of the principles of land economics, appraisal processes, and problems encountered in the gathering, interpreting, and evaluating of data involved in the valuation of real property, including complex industrial properties and mass-appraisal techniques;

(d) Knowledge of the law relating to taxation in Nebraska;

(e) Any certification or training required of Nebraska assessment officers; and

(f) Such other qualifications and skills as reasonably may be requisite for the effective and reliable performance of the commission's duties.

(3) The chairperson shall have been engaged in the practice of law in the State of Nebraska for at least five years, which may include prior service as a judge, and shall be currently admitted to practice before the Nebraska Supreme Court.

(4) No commissioner or employee of the commission shall hold any position of profit or engage in any occupation or business interfering with or inconsistent with his or her duties as a commissioner or employee. A person is not eligible for appointment and may not hold the office of commissioner or be appointed by the commission to or hold any office or position under the commission if he or she holds any official office or position.

(5) During each year of his or her term, each commissioner shall attend a seminar or class of at least two days duration, sponsored by a recognized assessment or appraisal organization, in each of these areas: Utility and railroad appraisal; appraisal of complex industrial properties; and mass appraisal, residential or agricultural appraisal, or assessment administration.

Sec. 5. (1) Within ten days after appointment, the commissioners shall meet at their office in Lincoln, Nebraska, and enter upon the duties of their office.

(2) A majority of the commission shall at all times constitute a quorum to transact business, and one vacancy shall not impair the right of the remaining commissioners to exercise all the powers of the commission.

(3) Any investigation, inquiry, or hearing held or undertaken by the commission may be held or undertaken by or before any one commissioner with the approval of the commission.

(4) All investigations, inquiries, hearings, and decisions of a commissioner and every order made by a commissioner when approved and confirmed by a quorum of the commission, if so shown on its record of proceedings, shall be deemed to be the order of the commission.

Sec. 6. The state shall furnish the commission and its commissioners with appropriate office space in Lincoln, Nebraska, together with suitable equipment, furniture, and supplies.

Sec. 7. The commission has the power and duty to hear and determine appeals of:

(1) Decisions of any county board of equalization equalizing the value of individual tracts, lots, or parcels of real property so that all real property is assessed uniformly and proportionately;

(2) Decisions of any county board of equalization granting or denying tax-exempt status for real or personal property;

(3) Decisions of the Property Tax Administrator determining the taxable property of a railroad company, car company, public service entity, or air carrier within the state;

(4) Decisions of any county board of equalization on the valuation of personal property or any penalties imposed under section 77-1233.04;

(5) Decisions of any county board of equalization of claims that a levy is or is not for an unlawful or unnecessary purpose or in excess of the requirements of the county;

(6) Decisions of any county board of equalization granting or rejecting an application for a homestead exemption;

(7) Any other decision of any county board of equalization; and

(8) Claims for refunds of property taxes alleged to be illegal, unconstitutional or the result of clerical error, misunderstanding, or mistake.

Sec. 8. In addition to its other powers and duties, the commission may issue writs of mandamus compelling compliance with its orders and compelling the Property Tax Administrator to enforce its orders and may charge the party which has not complied with the commission's orders with costs borne by the Property Tax Administrator.

Sec. 9. (1) The commission may employ clerical and other assistants as may be necessary to carry out the powers and duties of the commission.

(2)(a) For purposes of finding facts or in the performance of other duties with regard to any matters relating to taxation, the commission may appoint by an order in writing a special master or special masters whose duties are prescribed in the order.

(b) Special masters may be paid a salary or fee in the discretion of the commission. If a salary is paid, the amount paid shall be fixed by the commission, and if a fee is paid, the amount paid shall be in accordance with the value of the service rendered and shall be agreed upon and approved by the commission before the special master renders service under his or her appointment.

(c) The claim for services rendered shall be certified by the commission and paid as provided by law for other claims against the state.

(3) In the discharge of his or her duties a special master shall have all the investigative and factfinding powers of the commission in deciding any tax dispute.

(4)(a) The commission may conduct a number of factfindings contemporaneously through different special masters and may delegate to a special master the taking of all testimony bearing upon any investigation or hearing.

(b) The decision of the commission shall be based upon its examination of all testimony and records.

(c) The recommendations made by any special master shall be advisory only and shall not preclude the taking of further testimony if the commission orders further investigation.

Sec. 10. County boards, city councils, school boards, and all other bodies legally authorized to make levies are free to make the rate of levy for their respective political subdivisions or municipalities at any amount not prohibited by the Constitution of Nebraska or the laws of the state.

Sec. 11. The chairperson may call special meetings of the commission at such times as its business requires. The chairperson may also administer oaths and affirmations and sign all orders, certificates, and process in the name of the commission upon a roll call vote. The chairperson shall attest all orders, certificates, and process with the official seal of the commission.

Sec. 12. The commission shall prior to January 1 of each year submit to the State Board of Equalization and Assessment a formal equalization plan. The plan shall be derived from studies and statistics developed by the property tax division of the Department of Revenue and presented to the commission by the Property Tax Administrator. The plan shall focus on problem areas both geographically and by type of property as indicated by the Property Tax Administrator and the commission's experience in reviewing disputes.

Sec. 13. The person filing an appeal with the commission shall pay a filing fee of twenty-five dollars. The commission shall remit the filing fees collected to the State Treasurer for credit to the General Fund.

Sec. 14. In cases involving appeals of decisions by a county board of equalization or the Property Tax Administrator, the commission shall take evidence and otherwise conduct the appeal as provided in sections 15 to 19 of this act.

Sec. 15. Cases may be appealed to the commission within thirty days after the final action of the county board of equalization or Property Tax Administrator. In any case appealed to the commission all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place, and issues involved, but if, by reason of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable. Opportunity shall be afforded all parties to present

evidence and argument. The commission shall prepare an official record, which includes testimony and exhibits, in each case, but it shall not be necessary to transcribe shorthand notes unless requested for purposes of rehearing, in which event the transcript and record shall be furnished by the commission upon request and tender of the cost of preparation. Informal disposition may also be made of any case by stipulation, agreed settlement, consent order, or default. The commission shall adopt and promulgate rules and regulations for notice and hearing in cases appealed.

Sec. 16. In cases appealed to the commission:

(1) The commission may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonably prudent persons in the conduct of their affairs. It shall give effect to the rules of privilege recognized by law. It may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence. Any party to a formal hearing before the commission, from which a decision may be appealed to the courts of this state, may request that the commission be bound by the rules of evidence applicable in district court by delivering to the commission at least three days prior to the holding of the hearing a written request. The request shall include the requesting party's agreement to be liable for the payment of costs incurred and upon any appeal or review, including the cost of court reporting services which the requesting party shall procure for the hearing. All costs of a formal hearing shall be paid by the party or parties against whom a final decision is rendered;

(2) The commission may administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents, statistical analysis, and testimony, and cause the depositions of witnesses residing either within or without the state to be taken in the manner prescribed by law for taking depositions in civil actions in the district court;

(3) All evidence including records and documents in the possession of the commission of which it desires to avail itself shall be offered and made a part of the record in the case. No other factual information or evidence shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference;

(4) Every party shall have the right of cross-examination of witnesses who testify and shall have the right to submit rebuttal evidence; and

(5) The commission may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within its specialized knowledge or statistical information regarding general levels of assessment within a county or a class or subclass of property within a county and measures of central tendency within such county or classes or subclasses within such county which have been made known to the commission. Parties shall be notified either before or during the hearing or by reference in preliminary reports or otherwise of the material so noticed. They shall be afforded an opportunity to contest the facts so noticed. The commission may utilize its experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to it.

Sec. 17. In resolving a contested case, the commission may make such orders as are appropriate for resolving the dispute but in no case shall the relief be excessive compared to the problems addressed. The commission may make prospective orders requiring changes in assessment practices which will improve assessment practices or affect the general level of assessment or the measures of central tendency in a positive way. If no other relief is adequate to resolve disputes, the commission may order a reappraisal of property within a county, an area within a county, or classes or subclasses of property within a county.

Sec. 18. The commission may issue decisions and orders which are supported by the evidence and appropriate for resolving the matters in dispute. Every decision and order adverse to a party to the proceeding, rendered by the commission in a case appealed to the commission, shall be in writing or stated in the record and shall be accompanied by findings of fact and conclusions of law. The findings of fact shall consist of a concise statement of the conclusions upon each contested issue of fact. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order shall be delivered or mailed upon request to each party or his or her attorney of record.

Sec. 19. (1) Any person aggrieved by a final decision in a case appealed to the commission, whether the decision is affirmative or negative in form, shall be entitled to judicial review in the Court of Appeals. Nothing in this section shall be deemed to prevent resort to other means of review.

redress or relief provided by law.

(2)(a) Proceedings for review shall be instituted by filing a petition in the Court of Appeals within thirty days after the notification of the final decision by the commission. All parties of record shall be made parties to the proceedings for review. If the commission's only role in a case is to act as a neutral factfinding body, the commission shall not be a party of record. In all other cases, the commission shall be a party of record. Summons shall be served within thirty days after the filing of the petition in the manner provided for service of a summons in a civil action. If the commission is not a party of record, the petitioner shall serve a copy of the petition and a request for preparation of the official record upon the commission within thirty days after the filing of the petition. The court, in its discretion, may permit other interested persons to intervene.

(b) A petition for review shall set forth: (i) The name and mailing address of the petitioner; (ii) the name and mailing address of the county whose action is at issue or the commission; (iii) identification of the final decision at issue together with a duplicate copy of the final decision; (iv) the identification of the parties in the case that led to the final decision; (v) the facts to demonstrate proper venue; (vi) the petitioner's reasons for believing that relief should be granted; and (vii) a request for relief, specifying the type and extent of the relief requested.

(3) The filing of the petition or the service of summons upon the commission shall not stay enforcement of a decision. The commission may order a stay. The court may order a stay after notice of the application for the stay to the commission and to all parties of record. If the commission has found that its action on an application for stay or other temporary remedies is justified to protect against a substantial threat to the public health, safety, or welfare, the court may not grant relief unless the court finds that: (a) The applicant is likely to prevail when the court finally disposes of the matter; (b) without relief, the applicant will suffer irreparable injuries; (c) the grant of relief to the applicant will not substantially harm other parties to the proceedings; and (d) the threat to the public health, safety, or welfare relied on by the commission is not sufficiently serious to justify the commission's action in the circumstances. The court may require the party requesting the stay to give bond in such amount and conditioned as the court directs.

(4) Within thirty days after service of the petition or within such further time as the court for good cause shown allows, the commission shall prepare and transmit to the court a certified copy of the official record of the proceedings had before the commission. The official record shall include: (a) Notice of all proceedings; (b) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the commission pertaining to the case; (c) the transcribed record of the hearing before the commission, including all exhibits and evidence introduced during the hearing, a statement of matters officially noticed by the commission during the proceeding, and all proffers of proof and objections and rulings thereon; and (d) the final order appealed from. The commission shall charge the petitioner with the reasonable direct cost or require the petitioner to pay the cost for preparing the official record for transmittal to the court in all cases except when the petitioner is not required to pay a filing fee. The commission may require payment or bond prior to the transmittal of the record.

(5) The review shall be conducted by the court for error on the record of the commission. If the court determines that the interest of justice would be served by the resolution of any other issue not raised before the commission, the court may remand the case to the commission for further proceedings. The court may affirm, reverse, or modify the decision of the commission or remand the case for further proceedings.

(6) Appeals under this section shall be given precedence over all civil cases.

Sec. 20. The commission, subject to proper rules and regulations to be published and furnished to every assessing official, shall have the power to invalidate the certificate of any county assessor or deputy assessor who willfully fails or refuses to comply with any order of the commission. No certificate shall be revoked or suspended except upon a proper hearing before the commission.

After due notice, if the county assessor certificate of a person serving as county assessor or deputy assessor is revoked, such person shall be removed from office, the office declared vacant, and such person shall not be eligible to hold that office for a period of five years from the date of removal. Any county assessor or deputy assessor whose certificate has been so revoked may appeal the decision to the Court of Appeals, and the appeal shall

be in accordance with section 19 of this act.

Sec. 21. The commission may adopt and promulgate rules and regulations to carry out the Tax Equalization and Review Commission Act.

Sec. 22. Section 13-504, Revised Statutes Supplement, 1994, is amended to read:

13-504. (1) Each governing body shall prepare in writing and file with its secretary or clerk, in the year of its organization and each year thereafter, not later than the first day of August of each year on forms prescribed and furnished by the auditor following consultation with representatives of such governing bodies or as otherwise authorized by state law, a proposed budget statement containing the following information, except as provided by state law:

(a) For the immediate two prior fiscal years, the revenue from all sources, other than revenue received from taxation, allocated to each of the several funds and separately stated as to each such source, and for each fund: The unencumbered cash balance of such fund at the beginning and end of the year; the amount received by taxation allocated to each fund; and the amount of actual expenditure for each fund;

(b) For the current fiscal year, actual and estimated revenue from all sources, allocated to each of the several funds and separately stated as to each such source, and for each fund: The actual unencumbered cash balance available for such fund at the beginning of the year; the amount received from taxation allocated to each fund; and the amount of actual and estimated expenditure, whichever is applicable. Such statement shall contain the cash reserve for each such fund for each fiscal year and shall note whether or not such reserve is encumbered. Such cash reserve projections shall be based upon the actual experience of prior years. The cash reserve shall not exceed fifty percent of the total budget adopted for such fund exclusive of capital outlay items;

(c) For the immediately ensuing fiscal year, an estimate of revenue from all sources, other than revenue to be received from taxation, separately stated as to each such source, to be allocated to each of the several funds, and for each fund: The actual or estimated unencumbered cash balances, whichever is applicable, to be available at the beginning of the year; the amounts proposed to be expended during the year; and the amount of cash reserve, based on actual experience of prior years, which cash reserve shall not exceed fifty percent of the total budget adopted exclusive of capital outlay items;

(d) A uniform summary of the proposed budget statement which shall include a separate total for each fund, including each proprietary function fund included in a separate proprietary budget statement prepared pursuant to the Municipal Proprietary Function Act, and a grand total of all funds maintained by the governing body; and

(e) For municipalities, a list of the proprietary functions which are not included in the budget statement. Such proprietary functions shall have a separate budget statement which is approved by the city council or village board as provided in the Municipal Proprietary Function Act.

(2) Any governing body required by a final order of a court, the State Board of Equalization and Assessment, or the Tax Commissioner, the Tax Equalization and Review Commission, or the Property Tax Administrator from which no appeal is taken to reimburse property taxes to a taxpayer may certify to the county clerk of the county in which any part of the political subdivision is situated, not later than September 10, an itemized estimate of the amount necessary to be expended to reimburse the property taxes. Such amounts shall be levied by the county board of equalization. The taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and, when collected, shall be paid to the treasurer of the political subdivision and used to cover the reimbursement of the property taxes.

Any governing body which submits an itemized estimate shall establish a property tax reimbursement fund. Taxes collected pursuant to this section shall be credited to such fund to cover the reimbursement of the property taxes.

The authority conferred by this section shall apply only to reimbursements made during fiscal years 1993-94 through 1999-2000.

(3) The actual or estimated unencumbered cash balance of each fund required to be included in the budget statement by this section shall include deposits and investments of the political subdivision as well as any funds held by the county treasurer for the political subdivision and shall be accurately stated on the proposed budget statement.

(4) The political subdivision shall correct any material errors in the budget statement detected by the auditor or by other sources.

Sec. 23. Section 18-2713, Revised Statutes Supplement, 1994, is amended to read:

18-2713. Before adopting an economic development program, a city shall submit the question of its adoption to the registered voters at an election. The governing body of the city shall order the submission of the question by filing a certified copy of the resolution proposing the economic development program with the election commissioner or county clerk not later than forty-one days prior to a special election or not later than fifty days prior to a primary or general election. The question on the ballot shall briefly set out the terms, conditions, and goals of the proposed economic development program, including the length of time during which the program will be in existence, the year or years within which the funds from local sources of revenue are to be collected, the source or sources from which the funds are to be collected, the total amount to be collected for the program from local sources of revenue, and whether the city proposes to issue bonds pursuant to the Local Option Municipal Economic Development Act to provide funds to carry out the economic development program. The ballot question shall also specify whether additional funds from other noncity sources will be sought beyond those derived from local sources of revenue. In addition to all other information, if the funds are to be derived from the city's property tax, the ballot question shall state the present annual cost of the economic development program per ten thousand dollars of assessed valuation based upon the most recent valuation of the city certified to the ~~Tax Commissioner~~ Property Tax Administrator pursuant to section 77-1613.01. The ballot question shall state: "Shall the city of (name of the city) establish an economic development program as described here by appropriating annually from local sources of revenue \$..... for years?". If the only city revenue source for the proposed economic development program is a local option sales tax that has not yet been approved at an election, the ballot question specifications in this section may be repeated in the sales tax ballot question.

If a majority of those voting on the issue vote in favor of the question, the governing body may implement the proposed economic development program upon the terms set out in the resolution. If a majority of those voting on the economic development program vote in favor of the question when the only city revenue source is a proposed sales tax and a majority of those voting on the local option sales tax vote against the question, the governing body shall not implement the economic development program, and it shall become null and void. If a majority of those voting on the issue vote against the question, the governing body shall not implement the economic development program.

Sec. 24. Section 23-1611, Reissue Revised Statutes of Nebraska, is amended to read:

23-1611. The Auditor of Public Accounts shall establish a uniform system of accounting for all county officers, and such system, when established, shall be installed and used by all county officers except that, with the prior approval of the ~~Tax Commissioner~~ Property Tax Administrator, the county board of any county may direct that for all purposes of assessment of property, and for the levy and collection of all taxes and special assessments, there shall be used only individual ledger sheets or other tax records suitable for use in connection with electronic data processing equipment or other mechanical office equipment, to be used in accordance with procedures to be approved by the ~~Tax Commissioner~~ Property Tax Administrator. To the extent that it is practicable, the accounting system established for county officers shall be the same system established for state agencies.

Sec. 25. Section 46-133, Reissue Revised Statutes of Nebraska, is amended to read:

46-133. Upon the day specified in the notice required by section 46-132 for the meeting of the board of directors which is hereby constituted a board of equalization for that purpose, it shall meet and continue in session from day to day, as long as may be necessary, not to exceed six days, exclusive of Sundays, to hear and determine such objections to the valuation and assessment as may come before them; and the board may change the valuation as may be just, but shall not raise the valuation of any land as assessed by the assessor without giving the owner of such land due notice to appear and show cause why such valuation should not be raised. The secretary of the board shall be present during its session and note the changes made in the valuation of property, and in the names of the persons whose property is assessed; and within ten days after the close of the session he or she shall have the total values, as finally equalized by the board, extended into columns and added. Appeals may be taken from any action of the irrigation board of equalization to the ~~district court~~ within twenty days after its

adjournment, in the same manner as appeals are now taken from the action of the county board of equalization; as provided in sections 77-1510 to 77-1513 Tax Equalization and Review Commission.

Sec. 26. Section 76-214, Revised Statutes Supplement, 1994, is amended to read:

76-214. (1) Every grantee who has a deed to real estate recorded which was executed after July 21, 1965, and every purchaser of real estate who has a memorandum of contract or land contract recorded which was executed after July 16, 1994, shall, at the time such deed, memorandum of contract, or land contract is presented for recording, file with the register of deeds a completed statement as prescribed by the Tax Commissioner Property Tax Administrator. For all deeds executed and recorded after January 1, 1986, and for all memoranda of contract and land contracts executed and recorded after July 16, 1994, the statement shall contain the social security number of the grantee or purchaser, if living, or the federal employer identification number of the grantee or purchaser. This statement may require the recitation of any information contained in the deed, memorandum of contract, or land contract, the total consideration paid, the amount of the total consideration attributable to factors other than the purchase of the real estate itself, and other factors which may influence the transaction. This statement shall be signed and filed by the grantee, the purchaser, or his or her authorized agent. The statement form shall be designed so that multiple copies are generated. Beginning January 1, 1995, a copy of the statement shall be provided to the county assessor which shall have the blank which would contain the social security number or the federal employer identification number obscured or removed so that this information is not on that copy. If the grantee or purchaser fails to furnish the statement, the register of deeds shall not record the deed, memorandum of contract, or land contract. The register of deeds shall indicate on the statement the book and page or computer system reference where the deed, memorandum of contract, or land contract is recorded and shall immediately forward the statement to the county assessor. The county assessor shall process the statement according to the instructions of the Tax Commissioner Property Tax Administrator and shall, when directed, forward the statement to the Tax Commissioner Property Tax Administrator. Except as provided in subsection (2) of this section, the statement and the information contained therein shall be confidential and available to tax officials only.

(2) Registered, licensed, certified residential, and certified general real estate appraisers shall have access to statements on file with the county assessor which have been filed on or after January 1, 1995.

Sec. 27. Section 77-120, Revised Statutes Supplement, 1994, is amended to read:

77-120. (1) Net book value of property for taxation shall mean that portion of the Nebraska adjusted basis of the property as of the assessment date for the applicable recovery period in the table set forth in this subsection.

| Year | NET BOOK VALUE AS A PERCENT OF NEBRASKA ADJUSTED BASIS | | | | | |
|------|---|-------|-------|-------|-------|-------|
| | Recovery Period (in years) | | | | | |
| | 3 | 5 | 7 | 10 | 15 | 20 |
| 1 | 75.00 | 85.00 | 89.29 | 92.50 | 95.00 | 96.25 |
| 2 | 37.50 | 59.50 | 70.16 | 78.62 | 85.50 | 89.03 |
| 3 | 12.50 | 41.65 | 55.13 | 66.83 | 76.95 | 82.35 |
| 4 | 0.00 | 24.99 | 42.88 | 56.81 | 69.25 | 76.18 |
| 5 | | 8.33 | 30.63 | 48.07 | 62.32 | 70.46 |
| 6 | | 0.00 | 18.38 | 39.33 | 56.09 | 65.18 |
| 7 | | | 6.13 | 30.59 | 50.19 | 60.29 |
| 8 | | | 0.00 | 21.85 | 44.29 | 55.77 |
| 9 | | | | 13.11 | 38.38 | 51.31 |
| 10 | | | | 4.37 | 32.48 | 46.85 |
| 11 | | | | 0.00 | 26.57 | 42.38 |
| 12 | | | | | 20.67 | 37.92 |
| 13 | | | | | 14.76 | 33.46 |
| 14 | | | | | 8.86 | 29.00 |
| 15 | | | | | 2.95 | 24.54 |
| 16 | | | | | 0.00 | 20.08 |
| 17 | | | | | | 15.62 |
| 18 | | | | | | 11.15 |
| 19 | | | | | | 6.69 |
| 20 | | | | | | 2.23 |
| 21 | | | | | | 0.00 |

Net book value as a percent of Nebraska adjusted basis shall be

calculated using the one-hundred-fifty-percent declining balance method, switching to straight line, with a one-half-year convention.

(2) The applicable recovery period for any item of property shall be determined as follows:

- (a) Three-year property shall include property with a class life of four years or less;
- (b) Five-year property shall include property with a class life of more than four years and less than ten years;
- (c) Seven-year property shall include property with a class life of ten years or more but less than sixteen years;
- (d) Ten-year property shall include property with a class life of sixteen years or more but less than twenty years;
- (e) Fifteen-year property shall include property with a class life of twenty years or more but less than twenty-five years; and
- (f) Twenty-year property shall include property with a class life of twenty-five years or more.

(3) Class life shall be based upon the anticipated useful life of a class of property and shall be determined by the Tax Commissioner Property Tax Administrator under the Internal Revenue Code of 1986, as amended, as the code exists on the assessment date.

(4) One-half-year convention shall be a convention which treats all property placed in service during any tax year as placed in service on the midpoint of such tax year.

(5) The percent shown for year one shall be the percent used for January 1 of the year following the year of acquisition of the property.

Sec. 28. Section 77-202.01, Revised Statutes Supplement, 1994, is amended to read:

77-202.01. Any organization or society seeking a tax exemption provided in subdivisions (1)(b) and (1)(c) of section 77-202 for any real or personal property, except motor vehicles, shall apply for exemption to the county assessor before January 1 of the year for which the exemption is sought on forms prescribed by the Tax Commissioner Property Tax Administrator. The county assessor shall examine the application and recommend either taxable or exempt status for the real property or tangible personal property, except motor vehicles, to the county board of equalization on or before February 1 following.

Any organization or society which misses the January 1 deadline for applying for exemption may apply prior to ~~May 1 for tax year 1993 and February 1 for all other tax years~~ to the county board of equalization for a waiver so that the county assessor may consider the application for exemption. The county board of equalization shall grant the waiver upon a finding that good cause exists for the failure to make application by January 1. When the waiver is granted, the county assessor shall examine the application and recommend either taxable or exempt status for the real property or tangible personal property, except motor vehicles, to the county board of equalization and may, ~~beginning in 1993,~~ assess a penalty against the organization of ten percent of the tax that would have been assessed had the waiver been denied.

Sec. 29. Section 77-202.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-202.02. The county board of equalization, between February 1 and June 1 after a hearing on ten days' notice to the applicant, and after considering the recommendation of the county assessor and any other information it may obtain, shall grant or withhold tax exemption for the real property or tangible personal property, except motor vehicles, on the basis of law and of regulations promulgated by the Tax Commissioner Property Tax Administrator. The board shall certify its decision to the applicant, the county assessor, and the Tax Commissioner Property Tax Administrator within ten days thereafter.

Sec. 30. Section 77-202.03, Revised Statutes Supplement, 1994, is amended to read:

77-202.03. (1)(a) A properly granted exemption of real or tangible personal property, except motor vehicles and real property used for cemetery purposes, provided for in subdivisions (1)(b) and (1)(c) of section 77-202 shall continue for a period of four years if the affidavit required by subsection (2) of this section is filed when due. The four-year period shall begin with years evenly divisible by four.

(b) A properly granted exemption of real property used for cemetery purposes provided for in subdivision (1)(c) of section 77-202 shall continue for a period of ten years. At the end of each ten-year period, the county board may renew the exemption for another ten years without reapplication. This subdivision shall apply to applications granted after August 25, 1989.

(2) In each intervening year occurring between application years,

the organization or society which filed the granted exemption application for the real or tangible personal property, except motor vehicles and real property used for cemetery purposes, shall file an affidavit with the county assessor before January 1, on forms prescribed by the Tax Commissioner Property Tax Administrator, certifying that the ownership and use of the exempted property has not changed during the year. Any organization or society which misses the January 1 deadline for filing the affidavit may file the affidavit by July 1 for 1993 and by February 1 for all subsequent years. Such filing shall maintain the tax-exempt status of the property without further action by the county and regardless of any previous action by the county board to deny the exemption due to late filing of the affidavit. Upon any such late filing, the county board may assess a penalty against such organization or society of ten percent of the tax that would have been assessed had the affidavit not been filed.

(3) Prior to January 1 of any application year, a new application shall be filed with the county assessor as provided in section 77-202.01.

(4) If any organization or society seeks a tax exemption for any real or tangible personal property, except motor vehicles, acquired after January 1 of any year or converted to exempt use after January 1 of any year, the organization or society shall make application for exemption on or before August 15 of that year as provided in section 77-202.01. The procedure for reviewing the application shall be as in sections 77-202.01 to 77-202.07, except that the exempt use shall be determined as of the date of application. The exemption shall continue for the same period and under the same conditions as if it had been granted on an application which had been filed in accordance with subsections (1) and (2) of this section and section 77-202.01.

(5) In any year, the county assessor or the county board may cause a review of any exemption to determine whether the exemption is proper. Such a review may be taken even if the ownership or use of the property has not changed from the date of the allowance of the exemption. The review shall follow the procedure set out in section 77-202.02. If it is determined that a change in exempt status is warranted, the procedure for hearing set out in section 77-202.02 shall be followed. If an exemption is denied, the county board shall place the property on the tax rolls retroactive to January 1 of that year if on August 15 of that year the property no longer qualifies for an exemption.

(6) During the month of September of each year, the county board shall cause to be published in a paper of general circulation in the county a list of all real estate in the county exempt from taxation for that year pursuant to subdivisions (1)(b) and (1)(c) of section 77-202. Such list shall be grouped into categories as provided by the Tax Commissioner Property Tax Administrator. A copy of the list and proof of publication shall be forwarded to the Department of Revenue.

Sec. 31. Section 77-202.04, Reissue Revised Statutes of Nebraska, is amended to read:

77-202.04. Persons, corporations, or organizations denied exemption from taxation for real or tangible personal property, including motor vehicles, by a county board of equalization may appeal to the Tax Equalization and Review Commission, de novo to the district court of the county where such real or tangible personal property, including motor vehicles, is located in the same manner and under the same procedure as provided by sections 77-1510 and 77-1511, in the case of appeals from other actions of a county board of equalization, except that such appeal shall be taken within twenty days after the certification of the decision, determination, or order made by such board of equalization and except that the court on appeal shall make its decision on the law and equity and may reverse the action of such board even though it is not established that the action of the board was unreasonable or arbitrary. The Property Tax Administrator may in his or her Tax Commissioner may at his discretion intervene in any such appeal.

Sec. 32. Section 77-202.05, Reissue Revised Statutes of Nebraska, is amended to read:

77-202.05. The Tax Commissioner Property Tax Administrator shall prescribe forms for distribution to the county assessors on which persons, corporations, and organizations may apply for tax-exempt status for real or tangible personal property, including motor vehicles. The forms shall include the following information:

- (1) Name of owner or owners of the property, and if a corporation, the names of the officers and directors, and place of incorporation;
- (2) Legal description of real property, specific description of motor vehicles and their use, and a general description as to class and use of all other tangible personal property;
- (3) The precise statutory provision under which exempt status for

such property is claimed; and

(4) A statement that all taxes levied on such property have been paid up to the year for which exempt status is being claimed.

Sec. 33. Section 77-202.06, Reissue Revised Statutes of Nebraska, is amended to read:

77-202.06. The Tax Commissioner Property Tax Administrator shall adopt and promulgate rules and regulations governing tax-exempt status for real or tangible personal property. The Tax Commissioner Tax Equalization and Review Commission may review and reverse any decision of the county board of equalization granting tax-exempt status for real or tangible personal property, including motor vehicles, but only after a hearing has been held by the Tax Commissioner in the county where the property exempted is situated commission, upon ten days' written notice to the applicant and to the county board of equalization. The Tax Commissioner commission shall within thirty days of after the hearing certify mail an order to the applicant, the county assessor, and the county board of equalization.

Sec. 34. Section 77-202.07, Reissue Revised Statutes of Nebraska, is amended to read:

77-202.07. The applicant or county may appeal the order of the Tax Commissioner Property Tax Administrator, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 35. Section 77-202.08, Reissue Revised Statutes of Nebraska, is amended to read:

77-202.08. An application for tax-exempt status for a motor vehicle shall be made to the county assessor not more than fifteen days before and not later than thirty days after the registration date for the motor vehicle. Exempt status for a motor vehicle shall extend through the registration period. Failure to apply for tax exemption within the allotted time shall constitute a waiver of the exemption for the registration year. The county assessor shall examine the application and recommend either taxable or exempt status to the county board of equalization within twenty days after receipt of the application. The county board of equalization, after a hearing on ten days' notice to the applicant, and after considering the recommendation of the county assessor and any other information it may obtain, shall grant or withhold the tax exemption on the basis of law and of regulations promulgated by the Tax Commissioner Property Tax Administrator. The board shall certify its decision to the applicant, the county assessor, and the Tax Commissioner Property Tax Administrator within ten days after the hearing.

Sec. 36. Section 77-202.25, Reissue Revised Statutes of Nebraska, is amended to read:

77-202.25. Application for the exemption provided in subsection subdivision (2) of section 77-202.24 shall be made to the county assessor not more than fifteen days before and not later than thirty days after the registration date for the motor vehicle. The county assessor shall approve or disapprove such application and notify the taxpayer of his or her decision within twenty days of the filing of the application. The taxpayer may appeal the decision of the county assessor to the county board of equalization within twenty days after notice of the decision is mailed by the county assessor.

Application for the exemption provided in subsection subdivision (1) of section 77-202.24 shall be made to the county assessor on or before April 1 of every year. The county assessor shall approve or disapprove such application and shall notify the taxpayer of his or her decision within twenty days of the filing of the application. The taxpayer may appeal the decision of the county assessor to the county board of equalization within twenty days after notice of the decision is mailed by the county assessor.

The taxpayer may appeal any decision of the county board of equalization under this section to the district court pursuant to section 77-202.04.

Sec. 37. (1) By January 1, 1996, the Governor shall appoint a Property Tax Administrator with the approval of a majority of the members of the Legislature. The Property Tax Administrator shall have experience and training in the fields of taxation and property appraisal and shall meet all the qualifications required for members of the Tax Equalization and Review Commission under section 4 of this act. The Property Tax Administrator shall serve a six-year term. The Property Tax Administrator may be removed by the Governor for misfeasance, malfeasance, or willful neglect of duty or other cause after notice and a public hearing unless notice and hearing are expressly waived in writing by the Property Tax Administrator. The Property Tax Administrator shall supervise the property tax division of the Department of Revenue and perform other duties as provided by law. The Property Tax Administrator shall adopt and promulgate rules and regulations to carry out his or her duties.

(2) One of the purposes of this legislative bill is to transfer the powers and duties of the Tax Commissioner relating to assessment, valuation, and taxation of property to the Property Tax Administrator.

Sec. 38. Section 77-366, Revised Statutes Supplement, 1994, is amended to read:

77-366. (1) The Tax Commissioner and Property Tax Administrator shall each appoint or employ deputies, investigators, inspectors, agents, security personnel, and other persons as he or she deems necessary to administer and effectively enforce all provisions of the revenue laws of this state. The appointed personnel shall hold office at the pleasure of the Tax Commissioner or Property Tax Administrator. Any appointed or employed personnel shall perform the duties assigned by the Tax Commissioner or Property Tax Administrator.

(2) All personnel appointed or employed by the Tax Commissioner or Property Tax Administrator shall be bonded under the blanket surety bond required by section 11-201. As specified by the Tax Commissioner or Property Tax Administrator, certain personnel shall be vested with the authority and power of a law enforcement officer to carry out the laws of this state administered by the Tax Commissioner, the Property Tax Administrator, or the Department of Revenue. Such personnel shall be empowered to arrest with or without a warrant, file and serve any lien, seize property, serve and return a summons, warrant, or subpoena issued by the Tax Commissioner or Property Tax Administrator, collect taxes, and bring an offender before any court with jurisdiction in this state, except that such personnel shall not be authorized to carry weapons or enforce any laws other than laws administered by the Tax Commissioner, the Property Tax Administrator, or the Department of Revenue.

(3) Subsection (2) of this section shall not be construed to restrict any other law enforcement officer of this state from enforcing any state law, revenue or otherwise.

Sec. 39. Section 77-367, Reissue Revised Statutes of Nebraska, is amended to read:

77-367. The Department of Revenue Property Tax Administrator shall employ not less than six professionally qualified assistants to supervise the appraisal and reappraisal of real property within the state in order to assure accurate and uniform appraisals and reappraisals.

Sec. 40. Section 77-369, Reissue Revised Statutes of Nebraska, is amended to read:

77-369. The Tax Commissioner and Property Tax Administrator shall each make, adopt, and publish such rules and regulations as he or she may deem necessary and desirable to carry out the powers and duties imposed upon him or her and the Department of Revenue.

Sec. 41. Section 77-371, Reissue Revised Statutes of Nebraska, is amended to read:

77-371. The Tax Commissioner Property Tax Administrator shall devise, prescribe, and require the use of all forms deemed necessary for the effective administration of the property tax laws. The Tax Commissioner Property Tax Administrator may provide forms on a reimbursement basis. Alterations to any prescribed form may be made only upon written application to and written approval from the Tax Commissioner Property Tax Administrator.

Sec. 42. Section 77-375, Revised Statutes Supplement, 1994, is amended to read:

77-375. (1) The Tax Commissioner, or his or her duly authorized representative, and the Property Tax Administrator may administer oaths and compel the attendance of witnesses and require the production of records as may be necessary for the performance of his or her responsibilities under applicable state law.

(2) The Tax Commissioner and the Property Tax Administrator may adopt and promulgate rules of procedure for discovery, not in conflict with the laws governing discovery in civil cases, as may be necessary for the performance of his or her responsibilities under applicable state law.

Sec. 43. Section 77-376, Reissue Revised Statutes of Nebraska, is amended to read:

77-376. The Tax Commissioner or Property Tax Administrator may examine or cause to be examined in his or her behalf, and make memoranda from, any of the financial records of state and local subdivisions, persons, and corporations subject to the tax laws of this state. No information shall be released that is not so authorized by existing statutes.

Sec. 44. Section 77-399, Revised Statutes Supplement, 1994, is amended to read:

77-399. If, upon a check of the inventory, it is found that any taxable tangible personal property was not returned by the deceased during the three taxing periods or any taxing period included therein, the county

assessor shall compute the tax for the year or years during which the payment of taxes on the property was avoided within the three taxable years prior to the year the deceased died at the same tax rate as would have been imposed upon the property in the governmental subdivision of the State of Nebraska in which the property should have been returned for taxation and shall certify the years unpaid and the amount thereof to the county treasurer of such county. To the tax shall be added interest at eleven percent per annum from the date the tax would have been due if the property had been returned for taxation, plus a penalty of fifty percent of the amount due, except that the county assessor, in his or her discretion, with the approval of the county board of equalization, may waive all or part of the penalty provided by this section.

If the county assessor refuses to act or finds against a written protest, appeal may be taken to the county board of equalization which may affirm or reverse the decision of the county assessor. Notice of rejection of such protest shall be sent by mail to the taxpayer by the county board of equalization. Appeal de novo may be taken from the decision of the county board of equalization to the ~~district court of the county in which the assessment is made~~ Tax Equalization and Review Commission within twenty days after receipt by the taxpayer of the notice of the county board of equalization's rejection of the protest in the same manner as appeals are taken from action of the county board of equalization under sections 77-1510 and 77-1511.

This interest and penalty shall be included in the amount so certified to the county treasurer as provided in this section. If the omission or failure to return taxable tangible personal property was the result of filing a late return, if no extension of time for filing has been granted, and if the return was voluntarily made by the taxpayer without notice and prior to May 1 of the year in which the assessment should have been made, the penalty shall be as provided in this section.

Sec. 45. Section 77-3,113, Revised Statutes Supplement, 1994, is amended to read:

77-3,113. The Property Assessment Education and Improvement Fund is hereby created. The Department of Revenue Property Tax Administrator shall use the fund to (1) provide education to county assessors and county clerks performing the duties of county assessors, (2) make improvements to the computerization of assessment information and data, and (3) assist county assessors and county clerks performing the duties of county assessors in acquiring appropriate computer equipment and supplies to use the computerized information on assessment. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 46. Section 77-3,114, Revised Statutes Supplement, 1994, is amended to read:

77-3,114. The Department of Revenue Property Tax Administrator shall study the assessor's test required under section 77-421, the assessor's school, and the tax statement required under section 76-214 to determine improvements which need to be made and shall request an appropriation from the Legislature, if necessary, to implement the improvements.

Sec. 47. Section 77-415, Reissue Revised Statutes of Nebraska, is amended to read:

77-415. The Tax Commissioner Property Tax Administrator shall prepare and administer courses of training which shall be attended by all county assessors and county clerks who are ex officio county assessors, including newly elected assessors who certify to the county board that they will qualify and serve, and may be attended by members of the county board from each county in the state. Such courses shall be designed so as to impart a thorough knowledge of the techniques for the valuation of real and personal property and to develop the essential administrative skills for the proper discharge of the duties of their offices.

Sec. 48. Section 77-416, Reissue Revised Statutes of Nebraska, is amended to read:

77-416. The courses of training required by sections 77-415 to 77-420 shall be conducted as the Tax Commissioner Property Tax Administrator deems necessary. A written examination may be given at the conclusion of each course of instruction under sections 77-415 to 77-420. On the basis of the results of such examination, additional courses of instruction may be ordered by the Tax Commissioner Property Tax Administrator.

Sec. 49. Section 77-418, Reissue Revised Statutes of Nebraska, is amended to read:

77-418. Upon request of the Tax Commissioner Property Tax Administrator, the University of Nebraska shall cooperate in the preparation

and administration of and shall provide classroom facilities for the courses of instruction required by sections 77-415 to 77-420.

Sec. 50. Section 77-419, Reissue Revised Statutes of Nebraska, is amended to read:

77-419. The Tax Commissioner Property Tax Administrator shall prepare certificates of achievement which he or she shall award to county assessors, county clerks who are ex officio county assessors, and such members of the county board from each county in the state after successful completion of the courses of training provided by sections 77-415 to 77-420. No such certificate shall be awarded until the successful completion of at least one course of instruction.

Sec. 51. Section 77-420, Reissue Revised Statutes of Nebraska, is amended to read:

77-420. In cooperation with the county assessors association, the Tax Commissioner Property Tax Administrator shall annually arrange and conduct throughout the state a series of advanced seminars in assessment methods and techniques which seminars shall be supplementary to the course of training required by sections 77-415 to 77-420 and shall be available to all assessors.

Sec. 52. Section 77-421, Reissue Revised Statutes of Nebraska, is amended to read:

77-421. The Tax Commissioner Property Tax Administrator shall, in February and September of each year, hold an examination of applicants for certification as county assessor. An applicant for the examination shall, not less than ten days before an examination, present to the Tax Commissioner Property Tax Administrator a written application on forms provided by the Tax Commissioner Property Tax Administrator. Such application shall not be considered by the Tax Commissioner Property Tax Administrator unless accompanied by a payment of a fee to the order of the Tax Commissioner Property Tax Administrator. The amount of such fee shall be determined annually by the Tax Commissioner Property Tax Administrator and shall be sufficient to cover the costs of the administration of the examination. Such examination shall be written and shall be of such character as fairly to test and determine the qualifications, fitness, and ability of the person tested actually to perform the duties of county assessor. The Tax Commissioner Property Tax Administrator shall prepare such examination.

Sec. 53. Section 77-425, Reissue Revised Statutes of Nebraska, is amended to read:

77-425. The Tax Commissioner Property Tax Administrator, subject to proper rules and regulations to be published and furnished to every assessing official, shall have the power to invalidate the certificate of any assessor or deputy assessor who willfully fails or refuses faithfully to perform his or her duties in accordance with the rules, regulations, and instructions adopted, promulgated, and issued by the Tax Commissioner Property Tax Administrator, his or her manuals of assessment, and the laws of the state governing the assessment of property and the duties of each assessor and deputy assessor. No certificate shall be revoked or suspended except upon a proper hearing before the Tax Commissioner Property Tax Administrator or his or her designee after due notice. If the county assessor certificate of a person serving as assessor or deputy assessor is revoked, such person shall be removed from office by the Tax Commissioner Property Tax Administrator, the office shall be declared vacant, and such person shall not be eligible to hold that office for a period of five years from the date of removal. Any assessor or deputy assessor whose county assessor certificate has been so revoked may appeal the decision of the Tax Commissioner Property Tax Administrator, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 54. Section 77-428, Reissue Revised Statutes of Nebraska, is amended to read:

77-428. The Tax Commissioner Property Tax Administrator may promulgate such rules and regulations and prescribe such forms as necessary to implement sections 23-3202, 23-3203, 77-421, 77-422, and 77-425.

Sec. 55. Section 77-507.01, Revised Statutes Supplement, 1994, is amended to read:

77-507.01. In addition to the authority conferred by section 77-506, the State Board of Equalization and Assessment, in cases brought to its attention by the Tax Commissioner Property Tax Administrator, shall have the authority to direct the Tax Commissioner Property Tax Administrator to conduct a hearing to review any changes made by the agricultural and horticultural land valuation board or the county board of equalization in values of property in the county. At least five days' notice shall be given to the county clerk, county assessor, and chairperson of the county board. At the hearing, the legal representatives of the county may appear and show cause why the value of the property of the county should not be corrected or

adjusted.

Sec. 56. Section 77-508, Revised Statutes Supplement, 1994, is amended to read:

77-508. Pursuant to section 77-506, if the State Board of Equalization and Assessment finds that a just, equitable, and legal assessment of the property in the state cannot be made without increasing or decreasing by a percentage the value of a class or subclass of property as returned by any county, the board shall issue a notice to the counties which it deems either undervalued or overvalued and shall set a date for hearing at least five days following the mailing of the notice. The board may direct the Tax Commissioner Property Tax Administrator to hold such hearings to expedite the equalization process. The notice shall be mailed to the county clerk, county assessor, and chairperson of the county board. At the hearing the legal representatives of the county may appear and show cause why the value of a class or subclass of the property of the county should not be adjusted.

Sec. 57. Section 77-508.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-508.01. The State Board of Equalization and Assessment shall, pursuant to section 77-508, raise or lower the valuation of any class or subclass of property in a county when it is necessary to achieve intercounty equalization. In determining the necessity for such intercounty equalization and for the purposes of advising the board, the Tax Commissioner Property Tax Administrator shall employ the valuation techniques in section 77-112, when applicable, as well as a sales-assessment ratio study. In those counties where the number of valid or bona fide sales of real estate is not considered sufficient to furnish conclusive evidence as to the ratio of assessed values to sales values, the Tax Commissioner Property Tax Administrator may conduct and use an appraisal to determine sales-assessment ratio. In addition to the authority to conduct and use an appraisal in any ratio determination, the Tax Commissioner Property Tax Administrator may employ transfers of comparable real estate in surrounding counties as indicators of value in the sales-assessment ratio. When an appraisal does not reflect current values to use in such ratio computation, the Tax Commissioner Property Tax Administrator shall have the necessary appraisals conducted by qualified appraisers, and such appraisals shall be used in the ratio computation. The Tax Commissioner Property Tax Administrator may use any other relevant matter in considering intercounty equalization.

Sec. 58. Section 77-509, Revised Statutes Supplement, 1994, is amended to read:

77-509. After a hearing conducted pursuant to section 77-507.01 or 77-508, the State Board of Equalization and Assessment shall either (1) enter its order based on information presented to it at the hearing or (2) meet to hear the recommendation of the Tax Commissioner Property Tax Administrator based on information presented to him or her at the hearing. Notice of the Tax Commissioner's Property Tax Administrator's recommendation shall be mailed at least three days prior to the meeting. At the meeting the board may hear testimony relevant to the Tax Commissioner's Property Tax Administrator's recommendation from any interested person. The order of the board shall be sent by certified mail to the county assessor and by regular mail to the county clerk and chairperson of the county board on or before August 15 of each year. The order shall specify the percentage increase or decrease and the class or subclass of property affected or the corrections or adjustments to be made to the class or subclass of property affected. The specified changes shall be made by the county assessor to each item of property in the county so affected. Until such time as the Court of Appeals, pursuant to an appeal prosecuted pursuant to section 77-510, or the Supreme Court rules otherwise, each county shall be bound by the value established by the board.

Sec. 59. Section 16, Legislative Bill 452, Ninety-fourth Legislature, First Session, 1995, is amended to read:

Sec. 16. On or before August 15 of each year, the Tax Commissioner Property Tax Administrator shall certify the distributed taxable value of the property valued by the state, as equalized by the State Board of Equalization and Assessment, to each county assessor.

Sec. 60. Section 77-601, Reissue Revised Statutes of Nebraska, is amended to read:

77-601. The Tax Commissioner Property Tax Administrator shall assess all operating property of the railroads and railroad corporations in the State of Nebraska as defined in section 77-602.

Sec. 61. Section 77-602, Reissue Revised Statutes of Nebraska, is amended to read:

77-602. The Tax Commissioner Property Tax Administrator in May of each year shall proceed to ascertain all operating property of any railroad

company owning, operating, or controlling any railroad or railroad service in this state, which for the purpose of assessment and taxation shall be held to include the main track, sidetrack, spur tracks, warehouse tracks, roadbed, right-of-way and depot grounds, all machine and repair shops, general office buildings, storehouses, and all water and fuel stations, buildings, and superstructures located on any of such property, any manufacturing plant necessary in the operation of such railroad and any property used or held in connection with the manufacturing plant, all machinery, rolling stock, telegraph lines and instruments connected with such lines, all material on hand and supplies provided for operating and carrying on the business of such road, in whole or in part, franchises, all personal property of such railroad company, and all other real property of such railroad company which is adjacent and contiguous to the railroad right-of-way and is used or held for the sole purpose of operating the railroad. The Commissioner Property Tax Administrator shall appraise and assess such property as other real and personal property.

Sec. 62. Section 77-603, Revised Statutes Supplement, 1994, is amended to read:

77-603. On or before April 15 each year, the person, company, or corporation owning, operating, or controlling any railroad or railroad service in this state shall, by its president, secretary, principal accounting officer, or duly authorized corporate representative or official, return to the Tax Commissioner Property Tax Administrator a sworn statement or schedule of the property of such company on January 1 preceding. For good cause shown, the Tax Commissioner Property Tax Administrator may allow an extension of time in which to file such statement. Such statement shall include:

(1) A list of the right-of-way, track, and roadbed, giving the entire length of the main track and sidetrack in this and other states, and showing as to this state the portion in each governmental subdivision;

(2) A schedule showing: (a) The amount of capital stock authorized and the number of shares into which such capital stock is divided; (b) the amount of capital stock paid up; (c) the market value of the stock or, if of no market value, then the true value of the shares of stock; (d) the total amount of all secured and unsecured indebtedness except for current expenses of operating the road; and (e) the taxable valuation of all its operating property in this state that is locally assessed. Such schedule shall be made in conformity with such instructions and forms as may be prescribed by the Tax Commissioner Property Tax Administrator, which values shall be taken into account and be considered in arriving at the true value of such railroad property and its franchises;

(3) A correct return of the value of all materials and supplies used for operating and carrying on the business of such railroad;

(4) The total gross earnings and net earnings of such corporation during the year for which the statement is made, and the total amount expended in the operation and maintenance of the property and the improvements to such property, distinguishing that expended in improvement or betterment from that expended in maintenance and operation, also the dividend last declared upon its shares and the amount thereof, and the date, number, and amount of all dividends declared upon its stock during the year preceding the date of such report, and such other information as the Tax Commissioner Property Tax Administrator may in writing require, all of which shall be taken into consideration in ascertaining and fixing the value of such road and the franchise thereof; and

(5) Such other necessary information as the Tax Commissioner Property Tax Administrator may require.

Sec. 63. Section 77-604, Revised Statutes Supplement, 1994, is amended to read:

77-604. The returns of railroad companies or corporations shall not be held to be conclusive as to the taxable value of the property, but the Tax Commissioner Property Tax Administrator shall, from all the information which he or she is able to obtain, including records of the Public Service Commission or other regulatory body, find the taxable value of all such property, including tangible property and franchises, and shall assess such property on the same basis as other property is required to be assessed.

The taxable value of the railroad companies allocated to the state shall be distributed as follows:

(1) Five percent shall be distributed to all taxing subdivisions where the railroad company has investment in general office buildings or machine and repair facilities proportionate to the company's investment in general office buildings and machine and repair facilities in the state; and

(2) The balance shall be distributed to all taxing subdivisions including cities and villages based on a formula in which fifty percent of the

valuation is based on miles of main track and sidetrack and fifty percent of the valuation is based on density factor on miles of main track and sidetrack. The value per mile of sidetrack shall equal the value of the line divided by the following quantity: The number of miles of sidetrack plus two times the number of miles of main track. The value per mile of main track shall equal twice the value per mile of sidetrack as computed in this section.

For purposes of Chapter 77, article 6, the reference to sidetrack shall include all track not properly designated as main track and shall include, but not be limited to, passing track, yard track, and track within terminals. Main track shall be defined as that track over which regularly scheduled railroad operations are conducted. Density factor shall be determined by ton-miles traveled over a route, measured by the number of tons of revenue freight moved one mile.

Sec. 64. Section 77-605, Reissue Revised Statutes of Nebraska, is amended to read:

77-605. For each day's failure to furnish the statement required by section 77-603 or for each day's failure to furnish the information as required on those statements, the company may be assessed a penalty in the amount of one hundred dollars, except that the penalty shall not exceed ten thousand dollars. Such penalty shall be collected by the Tax Commissioner Property Tax Administrator. The Tax Commissioner Property Tax Administrator, in his or her discretion, may waive all or part of the penalty provided in this section.

Sec. 65. Section 77-606, Reissue Revised Statutes of Nebraska, is amended to read:

77-606. Any railroad company operating any road within the State of Nebraska shall, on or before ~~April 15~~ January 1 of each year, report to the county assessor, or the county clerk when he or she is ex officio county assessor, of each county through which its track runs, ~~the number of miles of main track and sidetrack situated within each governmental subdivision in the county as of January 1, together with all nonoperating taxable property belonging to such railroad company which is not subject to assessment and assessed by the Tax Commissioner Property Tax Administrator under section 77-602.~~

Sec. 66. Section 77-607, Reissue Revised Statutes of Nebraska, is amended to read:

77-607. The Tax Commissioner Property Tax Administrator shall have power to require any officer, agent, or servant of any railroad or railway company having any portion of its property in this state to attend a hearing and to answer under oath questions regarding the property. The commissioner Property Tax Administrator shall have power to issue whatever notice or process may be necessary to compel the attendance of any such person as a witness, which process may be served by any person designated by the commissioner Property Tax Administrator. Any person who fails to respond to such process or who refuses to answer any proper question put to him or her shall be guilty of a Class IV misdemeanor.

Sec. 67. Section 77-608, Reissue Revised Statutes of Nebraska, is amended to read:

77-608. Any officer, agent, or servant of any railroad company or other person who shall knowingly make any false answer to any question put to him or her by the Tax Commissioner Property Tax Administrator, or in the commissioner's Property Tax Administrator's behalf, regarding the property, business, money and credits, or value of such company shall be guilty of perjury.

Sec. 68. Section 77-609, Reissue Revised Statutes of Nebraska, is amended to read:

77-609. Beginning January 1, 1980, and each third year thereafter, the Tax Commissioner Property Tax Administrator shall recalculate the density factors used in distributing value along the line.

Sec. 69. Section 77-611, Reissue Revised Statutes of Nebraska, is amended to read:

77-611. The Tax Commissioner Property Tax Administrator, after having valued and assessed all of the railroad operating property in this state, shall, within thirty days of such assessment, make return to the county clerk of each county in which any portion of the railroad operating property may be located, to be used as the basis of levy for the county and governmental subdivisions through which any railroad or part thereof may extend.

Sec. 70. Section 77-612, Reissue Revised Statutes of Nebraska, is amended to read:

77-612. The Tax Commissioner Property Tax Administrator shall, on or before July 15 of each year, notify in writing each railroad company of the

value, determined by the Tax Commissioner Property Tax Administrator, of the railroad company's taxable operating property within the state. In the event any railroad company shall feel aggrieved, then such railroad company may, prior to on or before August 1, file with the Tax Commissioner Property Tax Administrator an administrative appeal in writing stating that it claims the valuation is unjust or inequitable, the amount which it is claimed the valuation should be, and the excess therein and asking for an adjustment of the valuation by the commissioner Property Tax Administrator. The appeal shall be considered and either party shall be permitted to introduce any evidence in reference thereto and fully and fairly present its case. The commissioner Property Tax Administrator shall act upon the appeal and shall make an order in the premises. The order shall be considered as the final order in the case from which an appeal may be taken, and the appeal shall be in accordance with the Tax Equalization and Review Commission Act, Administrative Procedure Act. In lieu of filing an administrative appeal with the Tax Commissioner pursuant to this section, a railroad may, prior to August 1, appeal to the district court, which appeal shall be heard by the district court de novo.

Sec. 71. Section 77-615, Revised Statutes Supplement, 1994, is amended to read:

77-615. It shall be the duty of the Tax Commissioner Property Tax Administrator, upon demand of a railroad company desiring to appeal, to furnish to the party a full and complete transcript of all the records and proceedings of the commissioner Property Tax Administrator in making the valuation, a full and complete record and bill of exceptions of the evidence considered and taken by the commissioner Property Tax Administrator in making the valuation, and a full statement by the commissioner Property Tax Administrator of the evidence upon which he or she acted in making the assessment. The fees for the transcript shall be the same as are allowed to clerks of the district court for making transcripts of records for appeal to the Court of Appeals.

Sec. 72. Section 77-616, Reissue Revised Statutes of Nebraska, is amended to read:

77-616. No injunction shall be granted restraining the levy of taxes under the assessment made by the Tax Commissioner Property Tax Administrator.

Sec. 73. Section 77-621, Reissue Revised Statutes of Nebraska, is amended to read:

77-621. The return by the Tax Commissioner Property Tax Administrator to the county clerks shall include:

- (1) The number of miles of main track and sidetrack of each railroad located in each governmental subdivision and the total length of main track and sidetrack in the county;
- (2) The assessed valuation per mile of such main track and sidetrack; and
- (3) The valuations that shall be placed to the credit of such governmental subdivision in the county.

Sec. 74. Section 77-623, Reissue Revised Statutes of Nebraska, is amended to read:

77-623. The assessed value of railroad operating property as determined by the Tax Commissioner Property Tax Administrator and reported to the county pursuant to section 77-621 shall be apportioned by the county assessor, or the county clerk when he or she is ex officio county assessor or in those counties having unit tax ledgers which are prepared by the county clerks, among the respective governmental subdivisions in which such property is located, and the value thereof may be entered on the tax list and collected by the county treasurer.

Sec. 75. Section 77-680, Revised Statutes Supplement, 1994, is amended to read:

77-680. The president or other chief officer or owner of every car line company shall, on or before June 1 of each year, furnish to the Tax Commissioner Property Tax Administrator a true, full, and accurate statement, verified by the affidavit of the officer or person making it, showing (1) the aggregate number of miles made by each class of their its cars on the several lines of railroad in this state during the preceding year ending December 31, (2) the aggregate number of miles made by each class of their its cars on all railroad lines during the preceding year ending December 31, (3) the total number of each type of their its cars, (4) the taxable value of their its cars, and (5) the number of their its cars required to make the total mileage in this state. For good cause shown, the Tax Commissioner Property Tax Administrator may allow an extension of time in which to file such statement.

Sec. 76. Section 77-681, Revised Statutes Supplement, 1994, is

amended to read:

77-681. The president or other chief officer of every railroad company which has lines running through, in, or into this state shall, on or before June 1 of each year, furnish to the Tax Commissioner Property Tax Administrator a statement, verified by the affidavit of the officer or person making the statement, showing the total number of miles traveled by each class of cars of every car line company on their lines, branches, sidings, spurs, and warehouse tracks in this state during the preceding year ending December 31. For good cause shown, the Tax Commissioner Property Tax Administrator may allow an extension of time in which to file such statement.

Sec. 77. Section 77-682, Revised Statutes Supplement, 1994, is amended to read:

77-682. The Tax Commissioner Property Tax Administrator shall ascertain from the statements made under sections 77-680 and 77-681, or from any other information available, the number of cars of each class required to make the total mileage in this state of each car line company within the period of one year. The Tax Commissioner Property Tax Administrator shall ascertain and fix the value upon each particular class of cars which as nearly as possible shall be the taxable value of such cars, and the number so ascertained shall be assessed to the respective car line company. The method of allocation shall be determined by the Tax Commissioner Property Tax Administrator. For the purpose of making the assessment, the Tax Commissioner Property Tax Administrator may base the assessment upon the statements of the railroad companies.

Sec. 78. Section 77-683, Revised Statutes Supplement, 1994, is amended to read:

77-683. (1) For each day's failure to furnish the statement required by section 77-680 or 77-681 or for each day's failure to furnish the information as required on the statement, the company may be assessed a penalty in the amount of one hundred dollars, except that the penalty shall not exceed ten thousand dollars. Such penalty shall be collected by the Tax Commissioner Property Tax Administrator. The Tax Commissioner Property Tax Administrator may waive all or part of the penalty provided in this section.

(2) In determining the number of such cars, the Tax Commissioner Property Tax Administrator, insofar as may be practicable, shall harmonize the statements of the railroad companies and car line companies. Such assessment shall be included in the records of the Tax Commissioner Property Tax Administrator.

Sec. 79. Section 77-684, Revised Statutes Supplement, 1994, is amended to read:

77-684. The Tax Commissioner Property Tax Administrator shall each year establish a tax rate for purposes of taxation against the taxable value as provided in sections 77-682 and 77-683 at a rate which shall be equal to the total property taxes levied in the state divided by the total taxable value of all taxable property in the state for the current tax year. When such tax rate has been determined, the Tax Commissioner Property Tax Administrator shall send to each car line company a statement showing the taxable value, the tax rate, and the amount of the tax and a statement that such tax is due and payable to the Tax Commissioner Property Tax Administrator on December 31 next following the levy thereof. The Tax Commissioner Property Tax Administrator shall remit the tax collected, less a three-percent collection fee, to the State Treasurer for distribution among the taxing subdivisions in proportion to all railroad taxes levied by taxing subdivisions. The collection fee shall be remitted to the State Treasurer for credit to the Tax Commissioner Revolving Fund.

Sec. 80. Section 77-685, Revised Statutes Supplement, 1994, is amended to read:

77-685. The Tax Commissioner Property Tax Administrator may issue a distress warrant to compel payment of the tax required by section 77-684 which may be served by any sheriff, any member of the Nebraska State Patrol, or any person specially deputized by the Tax Commissioner Property Tax Administrator to serve such warrant. At the time the tax is paid, the Tax Commissioner Property Tax Administrator shall issue a receipt in duplicate, one of which shall be given to the taxpayer and one filed with the State Treasurer at the time the tax collected is remitted by the Tax Commissioner Property Tax Administrator to the state treasury.

Sec. 81. Section 77-686, Revised Statutes Supplement, 1994, is amended to read:

77-686. The Tax Commissioner Property Tax Administrator, on or before December 31 of each year, shall certify to the State Treasurer the names of the car line companies and the several amounts of taxes levied under section 77-684.

Sec. 82. Section 77-687, Revised Statutes Supplement, 1994, is amended to read:

77-687. One-half of the taxes levied as provided in section 77-684 shall become delinquent February 1, and the second half on July 1, next following the date the tax has become due and payable. All delinquent taxes shall bear interest at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date they become delinquent, and the interest shall be collected in the same manner as the tax on which the interest accrues. If such taxes and interest due thereon have not been paid on July 1 following the levy thereof, the Tax Commissioner Property Tax Administrator shall collect the tax and interest by distress and sale of any property belonging to such delinquent car line company in the same manner as is required of county treasurers and county sheriffs in like cases.

Sec. 83. Section 77-689, Revised Statutes Supplement, 1994, is amended to read:

77-689. If any taxes and interest and penalties due on such taxes have not been paid on July 1 following the levy thereof, the total amount shall be a lien in favor of the State of Nebraska upon all money and credits belonging to the car line companies until the liability therefor is satisfied or otherwise released or discharged. The Tax Commissioner Property Tax Administrator or his or her designated agent may collect such total amount by issuing a distress warrant and making levy upon all money and credits belonging to such car line companies. Such lien shall be filed and enforced pursuant to the Uniform State Tax Lien Registration and Enforcement Act.

Sec. 84. Section 77-690, Revised Statutes Supplement, 1994, is amended to read:

77-690. Any car line company in possession of any money and credits upon which levy has been made shall, upon demand of the Tax Commissioner Property Tax Administrator or his or her designated agent, surrender the same to the Tax Commissioner Property Tax Administrator or his or her designated agent. If any such car line company fails or refuses to surrender the money and credits in accordance with the requirements of this section, such car line company shall be liable to the State of Nebraska in a sum equal to the value of the money and credits not so surrendered but not exceeding the amount of the taxes, interest, and penalties for the collection of which such levy has been made.

Sec. 85. Section 77-691, Revised Statutes Supplement, 1994, is amended to read:

77-691. The money realized from any levy made pursuant to section 77-689 shall be first applied by the Tax Commissioner Property Tax Administrator toward payment of any costs incurred by virtue of such levy and next to the payment of such taxes, interest, and penalties. Any balance remaining shall then be paid over to the car line company entitled thereto.

Sec. 86. Section 77-693, Revised Statutes Supplement, 1994, is amended to read:

77-693. (1) The Tax Commissioner Property Tax Administrator in determining the taxable value of railroads and car lines shall determine the following ratios involving railroad and car line property and commercial and industrial property:

(a) The ratio of the taxable value of all commercial and industrial personal property in the state actually subjected to property tax divided by the market value of all commercial and industrial personal property in the state;

(b) The ratio of the taxable value of all commercial and industrial real property in the state actually subjected to property tax divided by the market value of all commercial and industrial real property in the state;

(c) The ratio of the taxable value of railroad personal property to the market value of railroad personal property. The numerator of the ratio shall be the taxable value of railroad personal property. The denominator of the ratio shall be the railroad system value allocated to Nebraska and multiplied by a factor representing the net book value of rail transportation personal property divided by the net book value of total rail transportation property;

(d) The ratio of the taxable value of railroad real property to the market value of railroad real property. The numerator of the ratio shall be the taxable value of railroad real property. The denominator of the ratio shall be the railroad system value allocated to Nebraska and multiplied by a factor representing the net book value of rail transportation real property divided by the net book value of total rail transportation property; and

(e) Similar calculations shall be made for car line taxable properties.

(2) If the ratio of the taxable value of railroad and car line

personal or real property exceeds the ratio of the comparable taxable commercial and industrial property by more than five percent, the ~~Tax Commissioner Property Tax Administrator~~ may adjust the value of such railroad and car line property to the percentage of the comparable taxable commercial and industrial property pursuant to federal statute or Nebraska federal court decisions applicable thereto.

(3) For purposes of this section, commercial and industrial property shall mean all real and personal property which is devoted to commercial or industrial use other than rail transportation property and land used primarily for agricultural purposes.

Sec. 87. Section 77-801, Reissue Revised Statutes of Nebraska, is amended to read:

77-801. All public service entities shall furnish to the ~~Tax Commissioner Property Tax Administrator~~ on or before April 30 of each year a sworn statement specifying such information as may be required by the ~~Tax Commissioner Property Tax Administrator~~ on forms prescribed by the ~~Tax Commissioner Property Tax Administrator~~ to determine and distribute the entity's total taxable value including the franchise value.

Sec. 88. Section 77-802, Reissue Revised Statutes of Nebraska, is amended to read:

77-802. The sworn statement required by section 77-801, together with any other information available, shall be used by the ~~Tax Commissioner Property Tax Administrator~~ in determining the total taxable value including the franchise value of a public service entity for each of the local assessing districts. The ~~Tax Commissioner Property Tax Administrator~~ shall apportion the total taxable value including the franchise value to all taxing subdivisions in proportion to the ratio of the original cost of all operating real and tangible personal property of that public service entity having a situs in that taxing subdivision to the original cost of all operating real and tangible personal property of that public service entity having a situs in the state. If the apportionment in accordance with this section does not fairly represent the proportion of the taxable value, including franchise value properly allocable to the county, the taxpayer may petition for or the ~~Tax Commissioner Property Tax Administrator~~ may require the inclusion of any other method to effectuate an equitable allocation of the value of the public service entity for purposes of taxation. The ~~Tax Commissioner Property Tax Administrator~~ shall certify to the county assessors the value so determined.

Sec. 89. Section 77-803, Reissue Revised Statutes of Nebraska, is amended to read:

77-803. For each day's failure to furnish the statement required by section 77-801 or for each day's failure to furnish the information as required on those statements, the public service entity may be assessed a penalty in the amount of one hundred dollars, except that the penalty shall not exceed ten thousand dollars. Such penalty shall be collected by the ~~Tax Commissioner Property Tax Administrator~~. The ~~Tax Commissioner Property Tax Administrator~~, in his or her discretion, may waive all or part of the penalty provided in this section.

Sec. 90. Section 77-804, Reissue Revised Statutes of Nebraska, is amended to read:

77-804. Any sale of a public service entity as defined in section 77-801.01 shall be reported by the purchaser to the ~~Department of Revenue Property Tax Administrator~~ within thirty days from the date of the sale. The purchaser shall identify the seller, the date of the sale, any change in name of the entity, and the purchase price of the entity. If additional information regarding the sale is needed by the ~~Department of Revenue Property Tax Administrator~~, a specific written request shall be made.

Sec. 91. Section 77-1216, Reissue Revised Statutes of Nebraska, is amended to read:

77-1216. Questions that may arise as to the proper place to list personal property shall be determined as follows:

- (1) If between several places in the same county, the place for listing and assessing shall be determined and fixed by the county board; and
- (2) If between different counties, the place for listing and assessing shall be determined by the ~~Tax Commissioner Property Tax Administrator~~ under the provisions of the Administrative Procedure Act.

When fixed in either case, it shall be as binding as if fixed by specific statutory provision.

Sec. 92. Section 77-1229, Revised Statutes Supplement, 1994, is amended to read:

77-1229. Every person required by section 77-1201 to list taxable tangible personal property shall list such property upon the forms prescribed by the ~~Tax Commissioner Property Tax Administrator~~. The forms shall be

furnished by the county assessor and when completed shall be signed by each person or his or her agent and be filed with the county assessor. The forms shall be filed on or before June 1 for 1992 and on or before May 1 for all other years. If severe weather conditions or natural disaster prohibits the person from complying with this section, the county assessor may allow an extension without application but not more than fifteen days.

Sec. 93. Section 77-1233.04, Revised Statutes Supplement, 1994, is amended to read:

77-1233.04. (1) The county assessor shall change the reported valuation of any item of personal property listed on the return of any taxpayer to conform the valuation to taxable value. The assessor shall make a change to the valuation of any item of personal property for the current taxing period and the three previous taxing periods or any taxing period included therein.

(2) The county assessor shall list any item of personal property omitted from or not returned on a personal property return of any taxpayer and value the property at its taxable value. The assessor shall list and value omitted or not returned property for the current taxing period and the three previous taxing periods or any taxing period included therein. Property so listed and valued shall be taxed at the same rate as would have been imposed upon the property in the governmental subdivision of the state in which the property should have been returned for taxation. To the tax shall be added a penalty of fifty percent of the tax due. Interest shall be assessed upon both the tax and the penalty at the rate specified in section 45-104.01, as such rate may from time to time be adjusted by the Legislature, from the date the tax would have been delinquent until paid.

(3) For purposes of this section, the county assessor shall send notice, by first-class mail to the last-known address of the taxpayer, on a form prescribed by the ~~Tax Commissioner~~ Property Tax Administrator, advising the taxpayer of the action taken, the penalty, and the rate of interest, if any. The notice shall also state the taxpayer's appeal rights and the appeal procedures.

(4) The county assessor may with the approval of the county board of equalization waive all or part of the penalty assessed and any interest thereon. The entire penalty and interest shall be waived if the omission or failure to return any item of personal property was for the reason that the property was timely reported in the wrong taxing district.

(5) For purposes of this section, the taxpayer may appeal the action of the county assessor, either as to the valuation of property or the penalties imposed, to the county board of equalization within thirty days of the date the notice was mailed by the county assessor. The taxpayer shall preserve his or her appeal by filing an appeal with the county clerk in the same manner as prescribed for protests in section 77-1502. The action of the county assessor shall become final unless an appeal is filed within the time prescribed.

(6) Upon ten days' notice to the taxpayer, the county board of equalization shall set a date for hearing the appeal of the taxpayer. The county board of equalization shall make its determination on the appeal within thirty days after the date of hearing. The county clerk shall, within seven days of the determination of the county board, send notice to the taxpayer and the county assessor, on forms prescribed by the ~~Tax Commissioner~~ Property Tax Administrator, of the action of the county board. Appeal ~~de novo~~ may be taken from the decision of the county board of equalization to the district court of the county in which the assessment is made in the manner prescribed in sections 77-1510 and 77-1511 Tax Equalization and Review Commission.

(7) Taxes and penalties assessed for the current year, if not delinquent, shall be certified to the county treasurer and collected as if the property had been properly reported for taxation, except that separate tax statements may be mailed. Taxes and penalties assessed for the current year, if delinquent, and taxes and penalties assessed for prior years shall be certified to the county treasurer, and the tax, penalties, and interest thereon shall be due and collectible immediately upon certification. Collection procedures shall be started immediately regardless of the provisions of any other statute to the contrary.

Sec. 94. Section 77-1239, Revised Statutes Supplement, 1994, is amended to read:

77-1239. (1) The ~~Tax Commissioner~~ Property Tax Administrator shall prepare a schedule of values for motor vehicles already manufactured or being manufactured.

(2) In preparation of the schedule of values for cabin trailers and motor homes, the ~~Tax Commissioner~~ Property Tax Administrator shall deduct the value of household goods which are included in the value of the motor vehicle

and which are exempt from taxation pursuant to subdivision (1)(d) of section 77-202.

Sec. 95. Section 77-1239.01, Revised Statutes Supplement, 1994, is amended to read:

77-1239.01. Any person or any taxing unit, within ten days after the schedule of values has been filed by the Tax Commissioner Property Tax Administrator, may file a written protest of the valuations prepared by the Tax Commissioner Property Tax Administrator, stating the reasons such valuations are unjust or inequitable. Upon the filing of a protest, the Tax Commissioner Property Tax Administrator shall fix a time of hearing. The Tax Commissioner Property Tax Administrator shall act upon the protest in the same manner as any other property valuation protest. The final determination of the Tax Commissioner Property Tax Administrator may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act to the Tax Equalization and Review Commission.

Sec. 96. Section 77-1239.02, Revised Statutes Supplement, 1994, is amended to read:

77-1239.02. The Tax Commissioner Property Tax Administrator shall certify the schedule of values to the county assessor of each county on or before August 1 of each year. Throughout the year as new makes and models of motor vehicles are available to Nebraska residents, the Tax Commissioner Property Tax Administrator shall prepare a schedule of values for such motor vehicles and certify such schedule to the county assessors.

Sec. 97. Section 77-1240.01, Revised Statutes Supplement, 1994, is amended to read:

77-1240.01. (1) In addition to the registration fees provided by Chapter 60, article 3, a motor vehicle tax is hereby imposed from the date specified in section 77-1239.05 on motor vehicles registered for operation upon the highways of this state except motor vehicles exempt from taxation by subdivisions (1)(a) through (c) and subsections (4) and (5) of section 77-202.

(2) The motor vehicle tax shall be computed annually on the value of the motor vehicle as certified to the county assessor by the Tax Commissioner Property Tax Administrator at a rate equal to the property tax rate for all purposes for the preceding year in the several taxing units of the state in which the motor vehicle has tax situs.

(3) The county assessor shall cause a notice of the amount of the motor vehicle tax to be sent by United States regular mail to the registrant at the address shown upon the previous year's registration certificate, on a prenumbered form prescribed by the Tax Commissioner Property Tax Administrator, on or before the first day of the registration period. The motor vehicle tax together with the registration fee shall be paid prior to the registration of the motor vehicle for the following registration period. Failure to receive the notice of amount of tax shall not relieve the registrant from the obligation to pay the tax.

(4) The motor vehicle tax, as thus computed, shall be collected by the county treasurer at the time of application for and before registration of the motor vehicle. The proceeds from the motor vehicle tax shall be allocated to each taxing unit levying taxes on property in the county in which the motor vehicle has tax situs in the same proportion that the levy on taxable property of such taxing unit bears to the total levy on taxable property of all the taxing units. Any proceeds from the motor vehicle tax collected for years prior to the year of collection shall be allocated based upon the levy of the year of collection.

(5) The motor vehicle tax shall be due and payable on the first day of the first month of the registration period and shall be delinquent on the first day of the second month of the registration period.

Sec. 98. Section 77-1240.04, Revised Statutes Supplement, 1994, is amended to read:

77-1240.04. (1) When no valuation is available for the computation of the motor vehicle tax for a motor vehicle, upon application for registration the county assessor shall immediately place a valuation on such motor vehicle using as a basis for valuation the schedule of values certified by the Tax Commissioner Property Tax Administrator, and the valuation so fixed shall be used in computing the motor vehicle tax.

(2) If a county board consolidates services under the office of a designated county official other than the county assessor pursuant to section 23-186, the designated county official shall determine the motor vehicle tax.

Sec. 99. Section 77-1245, Reissue Revised Statutes of Nebraska, is amended to read:

77-1245. Any tax upon or measured by the value of flight equipment of air carriers incorporated or doing business in this state shall be assessed, collected by the Tax Commissioner Property Tax Administrator, and

disbursed as provided in section 77-1250. The proportion of flight equipment allocated to this state for purposes of taxation shall be the arithmetical average of the following three ratios: (1) The ratio which the aircraft arrivals and departures within this state scheduled by such air carrier during the preceding calendar year bears to the total aircraft arrivals and departures within and without this state scheduled by such carrier during the same period, ~~except~~ ~~7 PROVIDED~~, that in the case of nonscheduled operations all arrivals and departures shall be substituted for scheduled arrivals and departures; (2) the ratio which the revenue tons handled by such air carrier at airports within this state during the preceding calendar year bears to the total revenue tons handled by such carrier at airports within and without this state during the same period; and (3) the ratio which such air carrier's originating revenue within this state for the preceding calendar year bears to the total originating revenue of such carrier within and without this state for the same period.

If allocation in accordance with the provisions of this section does not fairly represent the proportion of flight equipment properly allocable to this state, the taxpayer may petition for, or the ~~Tax Commissioner~~ Property Tax Administrator may require, the inclusion of one or more additional ratios or the employment of any other method to effectuate an equitable allocation of the taxpayer's flight equipment for purposes of taxation.

Sec. 100. Section 77-1247, Reissue Revised Statutes of Nebraska, is amended to read:

77-1247. (1) Each air carrier, as defined in section 77-1244, shall on or before June 1 in each year make to the ~~Tax Commissioner~~ Property Tax Administrator a report, in such form as may be prescribed by the ~~Tax Commissioner~~ Property Tax Administrator, containing the information necessary to determine the value of its flight equipment and the proportion allocated to this state for purposes of taxation as provided in section 77-1246.

(2) For each day's failure to furnish the report required by subsection (1) of this section or for each day's failure to furnish the information as required on the report, the air carrier may be assessed a penalty in the amount of one hundred dollars, except that the penalty shall not exceed ten thousand dollars. Such penalty shall be collected by the ~~Tax Commissioner~~ Property Tax Administrator. The ~~Tax Commissioner~~ Property Tax Administrator, in his or her discretion, may waive all or part of the penalty provided in this section.

Sec. 101. Section 77-1248, Revised Statutes Supplement, 1994, is amended to read:

77-1248. The ~~Tax Commissioner~~ Property Tax Administrator shall ascertain from the reports made and from any other information obtained by him or her the taxable value of the flight equipment of air carriers and the proportion allocated to this state for the purposes of taxation as provided in section 77-1245.

Sec. 102. Section 77-1249, Revised Statutes Supplement, 1994, is amended to read:

77-1249. The ~~Tax Commissioner~~ Property Tax Administrator shall each year make a levy for purposes of taxation against the value ascertained and determined by the ~~Tax Commissioner~~ Property Tax Administrator as provided in section 77-1248 at a rate which shall be equal to the total property taxes levied in the state divided by the total taxable value of all taxable property in the state for the current tax year.

Sec. 103. Section 77-1249.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-1249.01. One-half of the taxes levied and due under sections 77-1249 and 77-1250 shall become delinquent February 1, and the second half on July 1, next following the date the tax has become due.

All delinquent taxes shall draw interest from the date they become delinquent at a rate equal to the maximum rate of interest allowed per annum under section 45-104.01, as such rate may from time to time be adjusted by the Legislature, and the interest shall be collected and distributed the same as the tax on which the interest accrues. If such taxes and interest due thereon shall not have been paid on July 1 following the levy thereof, the ~~Tax Commissioner~~ Property Tax Administrator shall collect the same by distress and sale of any property belonging to such delinquent person in like manner as required of county treasurers and county sheriffs in like cases.

Sec. 104. Section 77-1250, Reissue Revised Statutes of Nebraska, is amended to read:

77-1250. The tax levied pursuant to section 77-1249 shall be due and payable to the ~~Tax Commissioner~~ Property Tax Administrator on December 31 next following the date of levy of such tax and shall be a first lien from that date on the personal property, both tangible and intangible, of the

person assessed until the liability is satisfied or otherwise released or discharged. Such lien shall be filed and enforced pursuant to the Uniform State Tax Lien Registration and Enforcement Act. The Tax Commissioner Property Tax Administrator shall remit the tax paid to the State Treasurer, and the tax collected, less a three percent collection fee, shall be distributed to the counties to the credit of the county general fund proportionate to the amount the total property taxes levied in the county bears to the total property taxes levied in the state as a whole, as determined pursuant to section 77-1613.01. The collection fee shall be credited by the State Treasurer to the Tax Commissioner Revolving Fund.

Sec. 105. Section 77-1250.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-1250.02. The owner, lessee, or manager of any aircraft hangar or land upon which is parked or located any aircraft as defined by section 3-101-7 shall report by February 1 of each year to the county assessor in the county in which such aircraft hangar or land is located all aircraft as defined by section 3-101-7 located thereon in such hangar or on such land as of January 1 of each year on a form prescribed by the Tax Commissioner Property Tax Administrator. Any person violating the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than fifty dollars.

Sec. 106. Section 77-1250.03, Reissue Revised Statutes of Nebraska, is amended to read:

77-1250.03. If any taxes levied on air carriers as defined in section 77-1244 and interest and penalties due thereon shall not have been paid on July 1, following the levy thereof, the total amount shall be a lien in favor of the State of Nebraska upon all money and credits belonging to such air carriers until the liability therefor is satisfied or otherwise released or discharged, and it shall be lawful for the Tax Commissioner Property Tax Administrator or his or her designated agent to collect such total amount by issuing a distress warrant and making levy upon all money and credits belonging to such air carriers. Such lien shall be filed and enforced pursuant to the Uniform State Tax Lien Registration and Enforcement Act.

Sec. 107. Section 77-1250.04, Reissue Revised Statutes of Nebraska, is amended to read:

77-1250.04. Any person or corporation in possession of any such money and credits belonging to air carriers as defined in section 77-1244 upon which levy has been made shall, upon demand of the Tax Commissioner Property Tax Administrator or his or her agent, surrender the same to the Tax Commissioner Property Tax Administrator or his or her agent. If any person or corporation fails or refuses to surrender the same in accordance with the requirements of this section, such person shall be liable to the State of Nebraska in a sum equal to the value of the property or rights not so surrendered but not exceeding the amount of the taxes, interest, and penalties for the collection of which such levy has been made.

Sec. 108. Section 77-1250.05, Reissue Revised Statutes of Nebraska, is amended to read:

77-1250.05. The money realized from any levy under sections 77-1250.03 and 77-1250.04 shall be first applied by the Tax Commissioner Property Tax Administrator toward payment of any costs incurred by virtue of such levy and next to the payment of such taxes, interest, and penalties, and any balance remaining shall then be paid over to the person entitled thereto.

Sec. 109. Section 77-1301.01, Revised Statutes Supplement, 1994, is amended to read:

77-1301.01. The Tax Commissioner Property Tax Administrator shall adopt and promulgate rules and regulations to establish standards for the reappraisal of all real property in the various counties. The standards established shall require that the reappraisal of all real property shall be based upon the use of appraisal manuals developed pursuant to section 77-1330 and shall arrive at a determination of taxable value on a consistent basis in accordance with the methods prescribed in sections 77-112 and 77-201. The Tax Commissioner Property Tax Administrator shall also establish standards for reappraisal contracts which shall, among other provisions, require that all such contracts shall require the use of appraisal manuals developed pursuant to section 77-1330. No reappraisal contract shall be valid until approved in writing by the Tax Commissioner Property Tax Administrator.

Sec. 110. Section 77-1301.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-1301.02. Preference shall be given to professional reappraisal firms in the awarding of any reappraisal contract, but when no such firm is reasonably available the contract may be awarded to a local reappraisal board subject to rules and regulations of the Tax Commissioner Property Tax

Administrator.

Sec. 111. Section 77-1301.03, Reissue Revised Statutes of Nebraska, is amended to read:

77-1301.03. The Tax Commissioner and his Property Tax Administrator and his or her assistants shall furnish assistance and advice in connection with any reappraisal and shall check the progress thereof to determine whether standards are being met and the contract is being properly fulfilled.

Sec. 112. Section 77-1301.04, Reissue Revised Statutes of Nebraska, is amended to read:

77-1301.04. The Tax Commissioner Property Tax Administrator may require the adoption, in connection with any reappraisal, of a cadastral map and parcel numbering system and by rule adopt standards therefor.

Sec. 113. Section 77-1301.06, Reissue Revised Statutes of Nebraska, is amended to read:

77-1301.06. During the first year after completion of any reappraisal conducted pursuant to sections 77-1301.01 to 77-1301.08, the valuations established by such reappraisal shall be used for purposes of property taxation of all property so appraised. Each property owner shall be notified of the valuation to be used in the manner required by section 77-1315. During the first year after reappraisal, the county board shall not change the value unless it has received written concurrence from the Tax Commissioner Property Tax Administrator. The county assessor and the county board of equalization shall maintain and update the appraisal conducted and completed pursuant to sections 77-1301.01 to 77-1301.08. After completing and using the appraisal scheduled to be completed pursuant to sections 77-1301.01 to 77-1301.08, each county shall make an annual review of the appraised values for the purpose of maintaining and updating the appraisal. The review and the supporting data thereto shall be submitted to the Tax Commissioner Property Tax Administrator in the form of a written report on or before February 1 of the year following the year in which the review is made. The report to be submitted shall be as prescribed by the Tax Commissioner Property Tax Administrator. If any county fails to furnish the required report or satisfactorily meet the requirements prescribed in the rules and regulations for maintaining and updating the appraisal, the Tax Commissioner Property Tax Administrator shall enter into a contract for the review and updating of the appraisal. Such contract shall be only for the year in which the county has failed to act. Payment for any contract executed under this section by the Tax Commissioner Property Tax Administrator shall be pursuant to section 77-1301.08. Any county may at any time after completion of the appraisal scheduled to be completed pursuant to sections 77-1301.01 to 77-1301.08 contract for maintenance or updating to maintain an appraisal and contract for another reappraisal of the county. Such reappraisal or annual review, the contracting therefor, and the methods and procedures to be used shall be in conformance with any rules and regulations of the Tax Commissioner Property Tax Administrator adopted and promulgated pursuant to sections 77-1301.01 to 77-1301.08.

Sec. 114. Section 77-1301.07, Revised Statutes Supplement, 1994, is amended to read:

77-1301.07. A complete reappraisal of any or all real property at taxable value shall be made when ordered by the Tax Commissioner Property Tax Administrator after he or she has conducted a hearing in accordance with the Administrative Procedure Act and has made a finding that a reappraisal of any or all real property in a county or any part thereof is necessary for compliance with the law or with any rules and regulations, of the Department of Revenue.

Sec. 115. Section 77-1301.08, Reissue Revised Statutes of Nebraska, is amended to read:

77-1301.08. If any county fails to enter into an approved reappraisal contract within ninety days from the date an order is issued pursuant to section 77-1301.07, the Tax Commissioner Property Tax Administrator shall enter into a contract with a professional appraisal company to do the reappraisal within the county or contract with the county to do the reappraisal. Upon completion of such appraisal, the Tax Commissioner Property Tax Administrator shall notify the county board of the cost thereof and make demand for such cost. If payment is not received within sixty days after the mailing of such demand, the Tax Commissioner Property Tax Administrator shall forthwith report such fact to the Governor. In accordance with his or her constitutional duty to take care that the laws be faithfully executed, the Governor shall immediately issue an order to the State Treasurer directing that officer to withhold distribution to the county concerned of so much of the money to which such county may be entitled, under Chapter 66, article 4, and Chapter 77, articles 27 and 35, as shall be necessary for the

payment of such bill.

Sec. 116. Section 77-1301.12, Revised Statutes Supplement, 1994, is amended to read:

77-1301.12. For the purpose of complying with sections 77-1301.07 and 77-1301.08, the county, acting through its county commissioners or county supervisors, and the Tax Commissioner Property Tax Administrator may enter into an agreement by which the Tax Commissioner Property Tax Administrator directs a joint reappraisal with the county of the real property in the county. For a joint reappraisal to exist, the county shall actively participate in a portion of the reappraisal and be responsible for the reappraisal valuations of that portion.

Sec. 117. Section 77-1301.13, Revised Statutes Supplement, 1994, is amended to read:

77-1301.13. (1) The agreement for reappraisal shall be such as to assure the determination of taxable values on a consistent basis in accordance with the methods prescribed in sections 77-112 and 77-201.

(2) The agreement shall contain at least the following provisions:

- (a) Procedures under which reappraisal shall be conducted;
- (b) Qualifications for all persons performing the reappraisal;
- (c) Type and amount of work which may be performed by county officials and their employees;
- (d) Type and amount of work which may be performed by independent contractors under the direction and control of one of the parties to the agreement;

(e) The time period in which work shall be performed by all parties;

(f) That a cadastral map and parcel numbering system pursuant to section 77-1301.04 be adopted;

(g) That payment for actual cost of any work performed under the agreement by independent contractors pursuant to the direction and control of the Tax Commissioner Property Tax Administrator or state employees be made to the Tax Commissioner Property Tax Administrator; and

(h) That the reappraisal be based upon the appraisal manuals developed pursuant to section 77-1330.

Sec. 118. Section 77-1301.14, Reissue Revised Statutes of Nebraska, is amended to read:

77-1301.14. Any costs incurred by the Tax Commissioner Property Tax Administrator in performing the agreement for the joint undertaking shall be paid from the Tax Commissioner Revolving Fund and any receipts received pursuant to the agreement shall be deposited in that fund.

Sec. 119. Section 77-1301.15, Reissue Revised Statutes of Nebraska, is amended to read:

77-1301.15. The values established pursuant to the joint undertaking shall be used for purposes of property taxation of all property so appraised. Each property owner shall be notified of the valuations to be used in the manner required by section 77-1315. During the first year the reappraisal is used, the county board of equalization shall not be able to change the level of value unless it has received written concurrence from the Tax Commissioner Property Tax Administrator. The agreement entered into pursuant to section 77-1301.12 shall provide that assistance will be furnished by the Tax Commissioner Property Tax Administrator to the county board of equalization during the meetings of such board during the first year the reappraisal is used and that the costs of such assistance will be paid as provided for in section 77-1301.13.

Sec. 120. Section 77-1306.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-1306.01. In all counties where land ownership may from time to time be altered to add new lands to the tax rolls due to the activity of any river, stream, or other body of water along or bordering state lines, whether by accretion or avulsion, it shall be the duty of the county surveyor prior to June 1, 1960, and at least once within each five-year period thereafter either to cause to be surveyed any lands believed to have been altered in such manner or to certify in writing that it is his or her opinion that no alteration of ownership of any land in the county from that shown by the then current tax rolls has occurred due to the action of any river, stream, or other body of water along or bordering state lines. A report of such survey or surveys, showing the extent of any probable alteration of ownership due to the action of a river, stream, or other body of water along or bordering state lines, or a certificate of no change as provided shall be filed with the county assessor within the periods hereinbefore stated. In any county where there is no regularly elected or appointed county surveyor the county board shall appoint a qualified surveyor to carry out the provisions of this section. In the event of a failure of county officials to act as directed by this section,

within the periods stated, the Tax Commissioner Property Tax Administrator may appoint a qualified surveyor to act as provided by this section, and all costs incurred shall be paid by the county. In all counties where land ownership may from time to time be altered due to the activity of any river, stream, or other body of water not along or bordering state lines, whether by accretion or avulsion, it shall be the duty of the county surveyor to cause to be surveyed any lands believed to have been altered when directed by the county board of equalization or when requested by the Tax Commissioner Property Tax Administrator. If such a survey is ordered by the county board of equalization or requested by the Tax Commissioner Property Tax Administrator, the county surveyor shall perform the same duties as when a river, stream, or other body of water is along or borders state lines.

Sec. 121. Section 77-1311, Revised Statutes Supplement, 1994, is amended to read:

77-1311. The county assessor shall have general supervision over and direction of the assessment of all property in his or her county. In addition to the other duties provided by law, the county assessor shall:

(1) Annually revise the real property assessment for the correction of errors and, when properties have been assessed as entities and afterward part or parts transferred to other parties, set off and apportion to each its just and equitable portion of the valuation;

(2) Obey all rules and regulations made under Chapter 77 and the instructions sent out by the State Board of Equalization and Assessment or the Tax Commissioner Property Tax Administrator;

(3) Examine the records in the office of the register of deeds and county clerk for the purpose of ascertaining whether mortgages on real property and security interests on personal property, producing mineral leases, title notes, contracts, and bills of sale, intended to operate as a lien in the county, have been fully and correctly listed and add to the assessment roll any which have been omitted, belonging to residents of his or her county, and not otherwise assessed, upon notice to the owner thereof or his or her agents;

(4) Examine the records in the office of the county judge and ascertain whether the property belonging to minors, persons with mental retardation or a mental disorder, and estates of deceased persons has been fully and correctly listed and add to or change any such assessments so that the same shall be fully assessed;

(5) Examine the records in the office of the clerk of the district court to ascertain whether any judgments or liens thereon filed, belonging to residents of his or her county and not otherwise assessed, have been omitted from the assessment rolls and, in case of any such omission, add the same to the assessment roll after notice to the owner;

(6) Make up the assessment books as provided in section 77-1303; and

(7) Provide access to the public to property record cards and allow facsimiles to be reproduced at cost to the requesting individual.

Sec. 122. Section 77-1314, Reissue Revised Statutes of Nebraska, is amended to read:

77-1314. The county assessor shall, in the listing and assessing of property, follow the rules and regulations provided by law and the instructions formulated by the State Board of Equalization and Assessment or Tax Commissioner Property Tax Administrator. Whenever it shall appear to the satisfaction of the county board that any county assessor has willfully neglected or refused to obey any of the provisions of law or rules, regulations, or instructions of the board or Tax Commissioner Property Tax Administrator, or has willfully neglected and refused to perform any of the duties imposed upon him or her by law or by the rules, regulations, or instructions of the board, or the Property Tax Administrator, the board ~~it~~ shall forthwith remove such county assessor from his office, and the office of county assessor of such county shall thereupon become vacant. No county assessor shall be removed from office until after he or she has been notified and given a hearing by such board.

Sec. 123. Section 77-1325, Reissue Revised Statutes of Nebraska, is amended to read:

77-1325. (1) There shall be in the office of the Tax Commissioner a Division of Property Taxation. The head of the division shall be the chief and he shall have experience and training in the fields of taxation and property appraisal; a property tax division of the Department of Revenue.

(2) The Tax Commissioner Property Tax Administrator may appoint such employees as are necessary. The Tax Commissioner Property Tax Administrator may contract for the services of expert consultants to the division.

(3) In addition to any duties, powers, or responsibilities otherwise conferred upon the Tax Commissioner Property Tax Administrator, he or she

shall administer and enforce all laws related to the state supervision of local property tax administration and the central assessment of property subject to ad valorem taxation. Whenever the Tax Commissioner Property Tax Administrator assesses or appraises property, or provides services therefor, he or she shall prescribe the methods and specifications for such assessment or appraisal by rules and regulations.

Sec. 124. Section 77-1327, Revised Statutes Supplement, 1994, is amended to read:

77-1327. (1) It is the intent of the Legislature that accurate and comprehensive information be made accessible to the taxpayer in order to ensure the quality and uniformity of assessment practices on both intercounty and intracounty valuations.

(2) The Tax Commissioner Property Tax Administrator annually shall make and issue comprehensive assessment ratio studies of the average level of assessment, the degree of assessment uniformity, and overall compliance with assessment requirements for each major class of real property and for mobile homes and cabin trailers subject to the property tax in each county in the state. In order to determine the degree of assessment uniformity and compliance in the assessment of major classes of property within each county, the Tax Commissioner Property Tax Administrator shall compute measures of central tendency and dispersion and shall employ such standard statistical analysis as deemed appropriate by him or her.

(3) The Tax Commissioner Property Tax Administrator may require assessors and other local officers to report to him or her data on taxable valuations and other features of the property tax for such periods and in such form and content as the Tax Commissioner Property Tax Administrator shall require. The Tax Commissioner Property Tax Administrator shall so construct and maintain his or her system for the collection and analysis of property tax facts as to enable him or her to make intracounty comparisons, including school districts, as well as intercounty comparisons, including school districts, based on property tax and assessment ratio data. The Tax Commissioner Property Tax Administrator shall include analysis of real estate sales pursuant to land contracts and similar transfers at the time of execution of the contract or similar transfer. The property tax division of the Department of Revenue shall assist those county officials who require supplemental information to perform the duties necessary to carry out this section. The information requested may include, but shall not be limited to, sample appraisals, statistical analyses, arm's-length sales transactions, or any other information necessary to complete such analysis.

(4) The Tax Commissioner Property Tax Administrator shall verify the accuracy of information, including the selection of form 521 comparable sales, if any, that are not arm's-length transactions.

(5) The Tax Commissioner Property Tax Administrator shall annually publish a summary of the findings of the assessment ratio studies together with digests of property tax data.

(6) The county assessor shall annually, within fifteen days after certifying the assessment rolls pursuant to section 77-1315, post in his or her office and, as designated by the county board, mail to a newspaper of general circulation and to licensed broadcast media in the county the assessment ratios as found in his or her county as determined by the Tax Commissioner Property Tax Administrator and any other statistical measures, including, but not limited to, the assessment-to-sales ratio, the coefficient of dispersion, and the price-related differential.

Sec. 125. Section 77-1329, Reissue Revised Statutes of Nebraska, is amended to read:

77-1329. The Tax Commissioner Property Tax Administrator shall require each county assessor to maintain tax maps in accordance with standards specified by the Tax Commissioner Property Tax Administrator. Whenever necessary to correct mapping deficiencies, the Tax Commissioner Property Tax Administrator shall install standard maps or approve mapping plans and supervise map production. The Tax Commissioner Property Tax Administrator may require the county to reimburse the state for tax maps installed.

Sec. 126. Section 77-1330, Reissue Revised Statutes of Nebraska, is amended to read:

77-1330. (1) The Tax Commissioner Property Tax Administrator shall prepare, issue, and annually revise guides for county assessors in the form of handbooks of rules and regulations, appraisal manuals, special manuals and studies, cost and price schedules, news and reference bulletins, property tax laws, and memoranda. County assessors shall continually use such guides in the performance of their duties. All appraisals or reappraisals of property for tax purposes shall be in compliance with such manuals and guides.

(2) At any time after an examination has been conducted of the

county books and records by the property tax division of the Department of Revenue and when it is apparent that the county has failed or neglected to implement any guide prescribed or issued pursuant to subsection (1) of this section, the Tax Commissioner Property Tax Administrator may, after notice and a hearing conducted in accordance with the Administrative Procedure Act, order whatever corrective measures the Tax Commissioner Property Tax Administrator deems necessary to secure compliance with subsection (1) of this section. The values resulting from such corrective measures shall be placed upon the assessment rolls and used as a basis for taxation for the current tax year if deemed possible by the Tax Commissioner Property Tax Administrator, otherwise for the next calendar year. Each property owner shall be notified of the valuations to be used in the manner required by section 77-1315, and individual protests may be taken from such valuations in the manner prescribed by section 77-1502, except that if the Tax Commissioner Property Tax Administrator determines that corrective measures are able to be made for the current tax year, the Tax Commissioner Property Tax Administrator shall have authority to extend statutory due dates and filing requirements corresponding to the correction. Any current year corrections shall be completed no later than August 10. The performance of such corrective measures shall be a charge on the county and, upon completion, the Tax Commissioner Property Tax Administrator shall notify the county board of the cost and make demand for such cost. If payment is not received within sixty days after the mailing of such demand, the Tax Commissioner Property Tax Administrator shall forthwith report such fact to the State Treasurer. The State Treasurer shall immediately make payment to the Department of Revenue for the costs incurred by the department for such corrective measures. The payment shall be made out of any money to which such county may be entitled under Chapter 77, articles 27 and 35, and Chapter 66, articles 4 and 6.

Sec. 127. Section 77-1331, Reissue Revised Statutes of Nebraska, is amended to read:

77-1331. The Tax Commissioner Property Tax Administrator shall develop, maintain, and enforce a uniform system of statewide applicability for the preparation of assessment rolls, tax rolls, tax bills, and all other county revenue functions through data processing facilities as needed by the county or multicounty assessment district pursuant to rules and regulations. Until such time as a uniform system of statewide applicability is developed, counties or multicounty assessment districts may utilize data processing facilities by obtaining joint approval from the Tax Commissioner Property Tax Administrator and Auditor of Public Accounts in order to insure system compatibility and uniformity. PROVIDED, that all counties may, before the 1977 tax year, provide for the preparation of assessment rolls, tax rolls, and tax bills, and all other county revenue functions through data processing facilities, by contract, either with the Department of Revenue of the State of Nebraska or with other state-approved data processing facilities approved jointly by the Tax Commissioner and the Auditor of Public Accounts.

Sec. 128. Section 77-1332, Reissue Revised Statutes of Nebraska, is amended to read:

77-1332. Whenever a county by or pursuant to action of its county board requests the Tax Commissioner Property Tax Administrator to provide engineering, professional, or technical services for the appraisal or reappraisal of properties, the Tax Commissioner Property Tax Administrator may, within his or her available resources, and in accord with his or her determination of the need therefor, provide such services. The county shall pay to the Tax Commissioner Property Tax Administrator the actual cost of such services in accordance with a schedule of standard fees and charges furnished, and from time to time, revised by the Tax Commissioner Property Tax Administrator.

Sec. 129. Section 77-1333, Revised Statutes Supplement, 1994, is amended to read:

77-1333. The Tax Commissioner Property Tax Administrator shall provide to each county or multicounty assessment district at the request of such county or district the services of registered, licensed, certified residential, or certified general real estate appraisers for the appraisal of major industrial and commercial properties. The properties to be so appraised shall be determined by the Tax Commissioner Property Tax Administrator after consultation with county assessors. In making such determinations, the Tax Commissioner Property Tax Administrator shall perform such appraisals with the resources at his or her disposal.

Sec. 130. Section 77-1334, Reissue Revised Statutes of Nebraska, is amended to read:

77-1334. The Tax Commissioner Property Tax Administrator may make such inspections, investigations, and studies as may be necessary for the

adequate administration of his or her responsibilities pursuant to the provisions of sections 77-1325 to 77-1342. Such inspections, investigations, and studies may be made in cooperation with other state agencies, and, in connection therewith, the ~~Tax Commissioner~~ Property Tax Administrator may utilize reports and data of other state agencies.

Sec. 131. Section 77-1336, Reissue Revised Statutes of Nebraska, is amended to read:

77-1336. (1) In order to promote compliance with the requirements of law, the ~~Tax Commissioner~~ Property Tax Administrator shall issue and, from time to time, may amend or revise rules and regulations containing minimum standards of assessment and appraisal performance. Such standards shall relate to: (a) Adequacy of tax maps and records; (b) types and qualifications of personnel; (c) methods and specifications for the appraisal or reappraisal of property; (d) compliance with state manuals and guidelines; and (e) administration. For failure to meet the standards contained in such rules and regulations, the ~~Tax Commissioner~~ Property Tax Administrator may suspend, in whole or in part, performance of the assessment or appraisal function by a county.

(2) If the ~~Tax Commissioner~~ Property Tax Administrator finds that a county has failed or is failing to meet the standards contained in the rules or regulations in force pursuant to subsection (1) of this section, he or she shall notify the county assessor of the fact and nature of the failure. The notice shall be in writing and shall be served upon the county assessor and the county board.

(3) If within one year from the service of the notice the failure has not been remedied, the ~~Tax Commissioner~~ Property Tax Administrator may, at any time during the continuance of such failure, issue an order requiring the county assessor and county board to show cause why the authority of the county with respect to assessments or any matter related thereto should not be suspended; shall set a time and place at which the ~~Tax Commissioner~~ Property Tax Administrator or his or her representative shall hear the county assessor and county board on the order; and after such hearing shall determine whether and to what extent the assessment function of the county shall be so suspended.

(4) During the continuance of a suspension pursuant to subsection (3) of this section, the ~~Tax Commissioner~~ Property Tax Administrator shall succeed to the authority and duties from which the county has been suspended and shall exercise and perform the same. Such exercise and performance shall be a charge on the suspended county. The suspension shall continue until the ~~Tax Commissioner~~ Property Tax Administrator finds that the conditions responsible for the failure to meet the minimum standards contained in the rules and regulations of the ~~Tax Commissioner~~ Property Tax Administrator have been corrected.

(5) Any county aggrieved by a determination of the ~~Tax Commissioner~~ Property Tax Administrator made pursuant to this section or alleging that its suspension is no longer justified may have review of such determination or continued suspension in accordance with the Administrative Procedure Act Tax Equalization and Review Commission Act.

Sec. 132. Section 77-1339, Reissue Revised Statutes of Nebraska, is amended to read:

77-1339. (1) Any two or more contiguous counties may enter into an agreement for joint or cooperative performance of the assessment function.

(2) Such agreement shall provide for:

(a) The division, merger, or consolidation of administrative functions between or among the parties, or the performance thereof by one county on behalf of all the parties;

(b) The financing of the joint or cooperative undertaking;

(c) The rights and responsibilities of the parties with respect to the direction and supervision of work to be performed under the agreement;

(d) The duration of the agreement and procedures for amendment or termination thereof; and

(e) Any other necessary or appropriate matters.

(3) The agreement may provide for the suspension of the powers and duties of the office of county assessor in any one or more of the parties.

(4) Unless the agreement provides for the performance of the assessment function by the assessor of one county for and on behalf of all other counties party thereto, the agreement shall prescribe the manner of electing the assessor, and the employees of ~~his~~ the office, who shall serve pursuant to the agreement. Each county party to the agreement shall be represented in the procedure for choosing such assessor. No person shall be appointed assessor pursuant to an agreement who could not be so appointed for a single county. Except to the extent made necessary by the multicounty

character of the assessment agency, qualifications for employment as assessor or in the assessment agency, and terms and conditions of work shall be similar to those for the personnel of a single county assessment agency. Any county may include in any one or more of its employee benefit programs an assessor serving pursuant to an agreement made under this section and the employees of ~~his~~ the assessment agency. As nearly as practicable, such inclusion shall be on the same basis as for similar employees of a single county only. An agreement providing for the joint or cooperative performance of the assessment function may provide for such assessor and employee coverage in county employee benefit programs.

(5) No agreement made pursuant to the provisions of this section shall take effect until it has been approved in writing by the ~~Tax Commissioner Property Tax Administrator~~.

(6) Copies of any agreement made pursuant to the provisions of this section, and of any amendment thereto, shall be filed in the office of the ~~Tax Commissioner Property Tax Administrator~~ and county board of the counties involved.

Sec. 133. Section 77-1340, Reissue Revised Statutes of Nebraska, is amended to read:

77-1340. The county board of a county, may, by resolution, request the ~~Tax Commissioner Property Tax Administrator~~ to assume the county assessment function and to perform the same in and for the county. If the ~~Tax Commissioner Property Tax Administrator~~ finds that direct state performance of the function is necessary or desirable for the economic and efficient performance thereof, he or she may undertake such performance pursuant to the request. Unless otherwise authorized by law, the ~~Tax Commissioner Property Tax Administrator~~ shall undertake and perform the function only after the execution of a suitable agreement between the county and the ~~Tax Commissioner Property Tax Administrator~~ providing for responsibility for costs. During the continuance of performance of the county assessment function by the ~~Tax Commissioner Property Tax Administrator~~, the office and functions of the county assessor shall be suspended, and the performance thereof by the ~~Tax Commissioner Property Tax Administrator~~ shall be deemed performance by the county assessor.

Sec. 134. Section 77-1342, Revised Statutes Supplement, 1994, is amended to read:

77-1342. There is hereby created a fund to be known as the Tax Commissioner Revolving Fund to which shall be credited all money received by the Department of Revenue for services performed to county and multicounty assessment districts and under the provisions of sections 60-305.15, 77-684, and 77-1250, which provisions shall be for the purpose of providing funds to be used to develop appraisal manuals and distribute them to the counties and to engage competent counsel. The county or multicounty assessment district shall be billed by the ~~Tax Commissioner Property Tax Administrator~~ for services rendered. Reimbursements to the ~~Tax Commissioner Property Tax Administrator~~ shall be credited to the fund, and expenditures therefrom shall be made only when such funds are available. The ~~Tax Commissioner Property Tax Administrator~~ shall only bill for the actual amount expended in performing the service.

The fund shall, at the close of each year, be lapsed to the General Fund, except that no part of the fees received under sections 60-305.15, 77-684, and 77-1250 shall be so lapsed. Any money in the Tax Commissioner Revolving Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 135. Section 77-1346, Reissue Revised Statutes of Nebraska, is amended to read:

77-1346. The ~~Tax Commissioner Property Tax Administrator~~ shall adopt and promulgate rules and regulations to establish standards to be used by county assessors in determining eligibility for special valuation under subsection (1) of section 77-1344. Such standards shall not be designed to exclude from the special valuation those lands which are in agricultural or horticultural use for which tax relief is intended.

Sec. 136. Section 77-1360.01, Revised Statutes Supplement, 1994, is amended to read:

77-1360.01. The Legislature prescribes the method described in this section as an accurate and fair measure of the actual value of agricultural land and horticultural land for purposes of property taxation. The ~~Department of Revenue Property Tax Administrator~~ shall collect market information of actual sales of agricultural land and horticultural land and shall collect information to determine net income per acre pursuant to section 77-1364. A market value as determined by the market information collected shall be

divided into the net income per acre, which shall include price support programs, the Acreage Conservation Reserve Program, the Conserving Uses Program, wetlands and wildlife programs, and the Conservation Reserve Program, producing a market-derived capitalization rate. The department shall adjust the market-derived capitalization rates. The adjustment shall be an equal percentage across all categories of agricultural land and horticultural land. Beginning in tax year 1992, the adjustment shall be one hundred twenty-five percent of the market-derived capitalization rate so that the assessed value of agricultural land and horticultural land shall be eighty percent of market value. The actual value per acre shall be determined by taking the net income per acre and dividing it by the adjusted market-derived capitalization rate. The valuation of agricultural land and horticultural land shall be uniform and proportionate within the class of agricultural land and horticultural land.

Sec. 137. Section 77-1361, Revised Statutes Supplement, 1994, is amended to read:

77-1361. (1) Agricultural land and horticultural land used solely for agricultural or horticultural purposes shall constitute a separate and distinct class of property for purposes of property taxation. Agricultural land and horticultural land shall be valued using the agricultural land valuation manual issued by the Tax Commissioner Property Tax Administrator pursuant to section 77-1330 which shall be developed using the methods prescribed in sections 77-1359 to 77-1367 and 77-1371.

(2) No residential, commercial, industrial, or agricultural building or enclosed structure or the directly associated land or site of the building or enclosed structure shall be assessed as agricultural land or horticultural land.

(3) No area of land directly associated with an improvement or structure described in subsection (2) of this section shall apply in determining compliance with the twenty-acre requirement of sections 77-1359 and 77-1360.

Sec. 138. Section 77-1362, Revised Statutes Supplement, 1994, is amended to read:

77-1362. (1) An agricultural land valuation manual shall be developed by the Tax Commissioner Property Tax Administrator using the following method to determine actual value of agricultural land and horticultural land for taxable years beginning on or after January 1, 1986. Except as otherwise provided in subsection (4) of section 77-1364, the actual value of agricultural land and horticultural land shall be determined by: (a) Dividing agricultural land and horticultural land into categories and such categories into subclasses based on soil classifications; (b) computing a typical income stream based on historical gross receipts and landowner share determined using the method described in section 77-1364; and (c) dividing the derived income stream by a capitalization rate determined using the method described in section 77-1365. All data used to determine actual value of agricultural land and horticultural land shall be that data available on January 1 of the year prior to the year of assessment.

(2) The agricultural land valuation manual shall contain allowances to adjust actual values for irrigation costs and land productivity cost variations. Adjustments shall be based on empirical data and apply to areas with uniform characteristics which are within or which cross county lines. Upon written application to and approval from the Tax Commissioner Property Tax Administrator a county assessor may apply such adjustments to specific parcels of agricultural land and horticultural land. The provisions of this subsection shall be strictly construed to maintain the concept of statewide mass appraisal of agricultural land and horticultural land.

(3) The Tax Commissioner Property Tax Administrator may adjust the value of a class or subclass of agricultural land and horticultural land, as determined pursuant to subsection (1) of this section, so as to secure the uniform and proportionate valuation of the class or subclass of agricultural land and horticultural land between adjoining counties.

(4) The Tax Commissioner Property Tax Administrator may recognize geographic differences that exist within the county and issue separate values for a class or subclass of agricultural land and horticultural land for those distinct areas in the county.

Sec. 139. Section 77-1363, Revised Statutes Supplement, 1994, is amended to read:

77-1363. Agricultural land and horticultural land shall be divided into categories, including, but not limited to, irrigated cropland, dryland cropland, grassland, wasteland, nurseries, feedlots, and orchards, so that the categories reflect uses appropriate for the valuation of such land according to law. Categories shall be divided into subclasses based on soil classification standards developed by the United States Department of

Agriculture Soil Conservation Service. Land enrolled in a federal or state program in which payments are received for removing such land from agricultural or horticultural production shall be classified according to its actual value as determined in section 77-1360.01. County assessors shall utilize and implement soil surveys in the tax year after the soil survey maps become available. County assessors shall utilize and implement soil classifications as converted into land valuation groups provided by the Tax Commissioner Property Tax Administrator.

Sec. 140. Section 77-1364, Revised Statutes Supplement, 1994, is amended to read:

77-1364. (1) Income streams for cropland shall be computed by multiplying gross receipts by landowner share by county. Gross receipts shall be computed by multiplying the most recent five-year average price of a crop by the most recent five-year average yield of a crop and weighting the result by the most recent five-year average cropping pattern. The cropping pattern shall, as data is available, include, but not be limited to, the following crops: Continuous cropland wheat; summer fallow wheat; corn for grain; dry beans; sorghum for grain; sugar beets; soybeans for beans; oats; and alfalfa. The source of cropping patterns, crop yields by county, and crop prices by crop reporting district shall be as reported by the Nebraska Crop and Livestock Reporting Service or as published by other state or federal agencies and as selected and applied by the Tax Commissioner Property Tax Administrator.

For purposes of this section, landowner share shall mean the proportion of the gross receipts less landowner expenses paid by the landowner. Landowner share shall be computed based on representative leasing arrangements as determined from surveys conducted or authorized by the Department of Revenue or as published by other state or federal agencies and as selected and applied by the Tax Commissioner Property Tax Administrator. Landowner share shall be derived at least at each crop reporting district for each of the following: (a) Gravity irrigated cropland; (b) center pivot irrigated cropland; and (c) dryland cropland.

(2)(a) Income streams for grassland shall be computed as follows: (i) By multiplying the carrying capacity in terms of animal-unit months by representative rental value per animal-unit month; or (ii) by forage production less landowner expenses paid by the landowner. Carrying capacity and forage production, by subclass, shall be based on productivity estimates published by the United States Soil Conservation Service or other state or federal agencies and as selected and applied by the Tax Commissioner Property Tax Administrator. Rental values per animal-unit month shall be based on the most recent five-year average published by the Department of Agricultural Economics of the University of Nebraska or other state or federal agencies or developed from surveys performed by or for the Department of Revenue. Landowner expenses shall be computed based on representative leasing arrangements as determined from surveys conducted or authorized by the Department of Revenue or as published by other state or federal agencies and as selected and applied by the Tax Commissioner Property Tax Administrator.

(b) For counties or subclasses where animal-unit-month data is not available, the income stream shall be computed by using the average of the most recent five-year prevailing cash rental rates per acre less representative landowner expenses. The annual prevailing cash rental rates per acre shall be based on data developed by the Department of Agricultural Economics of the University of Nebraska or as published by other state or federal agencies and as selected and applied by the Tax Commissioner Property Tax Administrator.

(3) When making the computations prescribed in subsections (1) and (2) of this section, the same five-year period shall be used.

(4) Wasteland, including, but not limited to, forest land and shelterbelts, shall be valued at its actual value.

Sec. 141. Section 77-1367, Revised Statutes Supplement, 1994, is amended to read:

77-1367. The Agricultural Land Valuation Advisory Board shall:

(1) Review the agricultural land valuation manual developed by the Department of Revenue Property Tax Administrator;

(2) Review the data sources used by the Department of Revenue Property Tax Administrator;

(3) Review the values for agricultural land and horticultural land developed by the Department of Revenue Property Tax Administrator for implementation in the agricultural land valuation manual;

(4) Make written recommendations to the Tax Commissioner Property Tax Administrator as to improvements or refinements in the data used in developing and updating the agricultural land valuation manual;

(5) Make a written report to the Tax Commissioner Property Tax Administrator stating whether the method used to value agricultural land and horticultural land set forth in sections 77-1360.01, 77-1362 to 77-1367, and 77-1371 was properly applied in developing and updating the agricultural land manual; and

(6) Make recommendations to the Legislature as to improvements or refinements in the method of valuing agricultural land and horticultural land.

Sec. 142. Section 77-1371, Reissue Revised Statutes of Nebraska, is amended to read:

77-1371. When using comparable sales in any method of determining actual value provided in section 77-112, the following guidelines shall be considered in determining what constitutes a comparable sale:

(1) Whether the sale was financed by the seller and included any special financing considerations or the value of improvements;

(2) Whether zoning affected the sale price of the property;

(3) For sales of agricultural land or horticultural land as defined in section 77-1359, whether a premium was paid to acquire nearby property. Land within one mile of currently owned property shall be considered nearby property;

(4) Whether sales or transfers made in connection with foreclosure, bankruptcy, or condemnations, in lieu of foreclosure, or in consideration of other legal actions should be excluded from comparable sales analysis as not reflecting current market value;

(5) Whether sales between family members within the third degree of consanguinity include considerations that fail to reflect current market value;

(6) Whether sales to or from federal or state agencies or local political subdivisions reflect current market value;

(7) Whether sales of undivided interests in real property or parcels less than forty acres or sales conveying only a portion of the unit assessed reflect current market value;

(8) Whether sales or transfers of property in exchange for other real estate, stocks, bonds, or other personal property reflect current market value;

(9) Whether deeds recorded for transfers of convenience, transfers of title to cemetery lots, mineral rights, and rights of easement reflect current market value;

(10) Whether sales or transfers of property involving railroads or other public utility corporations reflect current market value;

(11) Whether sales of property substantially improved subsequent to assessment and prior to sale should be adjusted to reflect current market value or eliminated from such analysis; and

(12) For agricultural land or horticultural land as defined in section 77-1359 which is or has been receiving the special valuation pursuant to sections 77-1343 to 77-1348, whether the sale price reflects a value which the land has for purposes or uses other than as agricultural land or horticultural land and therefor does not reflect current market value of other agricultural land or horticultural land.

The Department of Revenue Property Tax Administrator may issue guidelines for assessing officials for use in determining what constitutes a comparable sale. Guidelines shall take into account the factors listed in this section and other relevant factors as prescribed by the department Property Tax Administrator.

Sec. 143. Section 77-1376, Revised Statutes Supplement, 1994, is amended to read:

77-1376. Improvements on leased lands, other than leased public lands, shall be listed for assessment to the owner of the leased lands unless before January 1 following any change in the improvements the owner of the leased lands or the lessee thereof, or the owner of the leased lands and the lessee thereof before March 1 following change in such improvements, file with the county assessor on a form prescribed by the Tax Commissioner Property Tax Administrator a request stating that specifically designated improvements on such leased lands are the property of the lessee. The improvements shall be listed for assessment by the owner thereof as real property, and the taxes imposed on the improvements shall be collected by levy and sale of the interest of the owner in the same manner as in all other cases of the collection of taxes on real property. When the request is filed by the owner of the leased lands, notice shall be given by the county assessor to the lessee at the address on the request. Improvements on leased lands shall have tax situs in the tax district where the leased lands are located.

Sec. 144. Section 77-1377, Revised Statutes Supplement, 1994, is amended to read:

77-1377. The Department of Revenue Property Tax Administrator shall create a statewide file on real estate sales to compile data and information regarding hard-to-assess property, including situations in which a local property may have few available comparable sales. The department Property Tax Administrator shall make the file available to county assessors and county clerks performing the duties of county assessors.

Sec. 145. Section 77-1381, Revised Statutes Supplement, 1994, is amended to read:

77-1381. Each board may:

(1) Employ such full-time or part-time clerical, professional, legal, or other personnel and maintain an office as deemed necessary by the board to carry out the board's duties. All original files, records, and property of the board shall be maintained at such office;

(2) In addition to the annual meeting, hold meetings and hearings as called by the chairperson of the board or upon the request of a majority of the board;

(3) After May 15 and on or before June 15 of each year, (a) increase or decrease by percentage the value of a class or subclass of agricultural and horticultural land in any county in its land manual area in order to establish equalization of value between the various counties in its land manual area effective for that year and (b) make necessary changes in classification of agricultural and horticultural land within its land manual area if the evidence discloses incorrect classification;

(4) Make recommendations to the Department of Revenue Property Tax Administrator as to changes in the agricultural land valuation manual and to the Legislature concerning changes in laws necessary to obtain valuation of agricultural and horticultural land; and

(5) Participate in appeals of its actions.

Sec. 146. Section 77-1384, Revised Statutes Supplement, 1994, is amended to read:

77-1384. Any county board of equalization within a land manual area may appeal an action of an agricultural and horticultural land valuation board increasing or decreasing values or reclassifying land within the county to the State Board of Equalization and Assessment Tax Equalization and Review Commission. The State Board of Equalization and Assessment Commission shall hold a hearing and shall enter its order prior to August 15. All appeals shall be commenced within fourteen days after the action by the agricultural and horticultural land valuation board by mailing notice to the State Board of Equalization and Assessment Commission and the agricultural and horticultural land valuation board setting forth the order from which the appeal is being taken, the date of the order, and a summary of the reason for the appeal. The burden of proof shall be on the party appealing the order to establish that the order by the agricultural and horticultural land valuation board is unlawful, arbitrary, or capricious.

Sec. 147. Section 77-1502, Revised Statutes Supplement, 1994, is amended to read:

77-1502. The county board of equalization shall hold a session of not less than three and not more than sixty days, for the purpose of reviewing and deciding the protests filed pursuant to sections 77-1502 to 77-1507, commencing on April 1 of each year and ending on May 31 except for agricultural land and horticultural land which shall commence on or after March 15 and end on May 1. Protests shall be written in triplicate and filed with the board. Protests for real property shall be filed within thirty days of the assessor's filing of the certificate required by section 77-1315. Protests for tangible personal property shall be filed on or before the last date for filing the form required by section 77-1229.

Attached to each copy of the protest shall be a written statement of the reason or reasons why the requested reduction in assessment should be made or the protest shall be automatically dismissed.

In equalizing assessments during its regular session, the board shall prepare a separate report as to each action taken by it with respect to equalization, and such report shall include a description of the property affected by such action, the recommendation of the county assessor with respect to the action proposed or taken, the names of witnesses whose testimony was heard in connection with the action, a summary of their testimony, and a statement by the board of the basis upon which it took such action. Such report shall identify by name the members of the board favoring the action taken, be signed by the chairperson of the board, and contain a certification over his or her signature that a copy thereof is being mailed to the Tax Commissioner Tax Equalization and Review Commission. One copy of the report shall be given to the officer charged with the duty of preparing the tax list, and such officer shall have no authority to make a change in the

values prepared and submitted by the county assessor until such report is in his or her possession, completed, signed, and certified in the manner specified in this section. If he or she deems it incomplete, he or she shall return the same to the board for proper preparation and execution.

Within seven days after a final decision by the county board of equalization on any protest filed with the board for adjustment of property values, the county clerk shall notify the protester of the action taken by the board.

Sec. 148. Section 77-1503.01, Revised Statutes Supplement, 1994, is amended to read:

77-1503.01. For purposes of ~~sections~~ section 77-1504, and 77-1506-02, items of property or classes or subclasses of property shall mean locally assessed real property and tangible personal property. Any property valued by the state shall not be subject to equalization by the county board of equalization under ~~sections~~ section 77-1504, and 77-1506-02.

Sec. 149. Section 77-1504, Revised Statutes Supplement, 1994, is amended to read:

77-1504. The county board of equalization shall fairly and impartially equalize the values of all items of real property in the county except agricultural land and horticultural land as defined in section 77-1359 so that all real property is assessed uniformly and proportionately. The county board of equalization may consider and correct the assessment of any property by raising, after due notice has been given to the owner or agent at his or her last-known address, or by lowering the assessment of such property. No action shall be taken by the county board of equalization pursuant to this section before April 1 nor after May 31 of each year, except that for agricultural land and horticultural land, no action shall be taken before March 15 or after May 1 other than to initiate appeals pursuant to section 77-1384.

For agricultural land or horticultural land as defined in section 77-1359, the county board of equalization may make the following corrections:

- (1) Descriptions of ownership;
- (2) Land-use categorization;
- (3) Conversion of soil classification into land valuation groups

only if such conversion is at variance with the most current conversion legend issued by the Tax Commissioner Property Tax Administrator; and

(4) Such other adjustments as are provided for in the agricultural land valuation manual developed under section 77-1362 without the approval of the Tax Commissioner Property Tax Administrator.

For purposes of equalization of the valuation of any protested real property, the county board of equalization shall make its adjustment so that the value of the protested property compares to the aggregate level of value of the class or subclass of property in which the protested property is categorized.

Sec. 150. Section 77-1507, Reissue Revised Statutes of Nebraska, is amended to read:

77-1507. The county board of equalization may meet at any time upon the call of the chairperson or any three members of the board for the purpose of determining and equalizing the assessments of any omitted or undervalued real or personal property. The board shall add to the assessment rolls any taxable property not included therein, assessing the same in the name of the owners thereof. Omitted or undervalued personal property shall be added only after the owner or agent of the owner thereof is notified. The board shall maintain a written report of all proceedings and actions taken pursuant to this section. The report shall show the vote of the members of the board and the justification for the action. The report shall be available for public inspection in the office of the county assessor. A copy of such report shall be submitted to the Tax Commissioner Property Tax Administrator.

Sec. 151. Section 77-1510, Revised Statutes Supplement, 1994, is amended to read:

77-1510. Appeals may be taken from any action of the county board of equalization to the Tax Equalization and Review Commission in accordance with the Tax Equalization and Review Commission Act, district court in the following manner:

(1) The appeal shall be filed within forty-five days after adjournment of the board which, for actions taken pursuant to sections 77-1502 and 77-1504, shall be deemed to be May 31 of the year in which the action is taken, except that for personal property appeals in 1992, the date of adjournment shall be deemed to be June 15.

(2) The appeal shall be deemed to be filed for purposes of granting jurisdiction with the filing of the petition and praecipe for summons in the district court and the filing of a request for a transcript with the county

clerk. The county clerk shall prepare the transcript as soon as practicable after requested and shall deliver the same to the taxpayer for filing with the clerk of the district court upon receipt from the taxpayer of the appropriate fees for its preparation. No proceedings shall be held on the appeal of the taxpayer until the summons has been served and the transcript has been filed in district court; and

(3) A bond of no less than fifty dollars and no more than two hundred dollars, as determined by the district court, shall be filed with the petition in the form of a cash deposit or signature bond, property bond, or other bond approved by the county clerk.

After an appeal has been initiated, the board shall have no power or authority to compromise, settle, or otherwise change the action it has taken with respect to such assessment, and exclusive jurisdiction thereof shall be vested in the district court, except that the board may offer to confess judgment pursuant to section 77-1510.01. No appeal shall in any manner suspend the collection of any tax or the duties of officers relating thereto during the pendency of the appeal, and all taxes affected thereby, which may be collected, shall be distributed as though no appeal were pending.

If by final order of a court it is thereafter determined that the value of the property should be reduced, any tax collected on the value in excess of the taxable value found by the court shall be refunded in the manner provided in section 77-1736.06, and the taxpayer shall not have been required to pay the tax under protest or initiate a refund claim for the tax paid. A person shall not be entitled to a refund pursuant to this section unless the person has prevailed in an action against the county which was filed pursuant to this section.

The county may cross appeal without giving bond for the reason that the taxable value of the owner's property is too low and should be increased in value as of the assessment date from which the appeal was taken.

Any party may appeal the final order of the district court entered pursuant to this section to the Court of Appeals in the manner provided for appeals in equity cases, and the appellate court shall thereafter review the case de novo on the record.

Sec. 152. Section 77-1510.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-1510.01. After an appeal from any action of the county board of equalization is brought, the board may, with approval of the ~~court~~ Tax Equalization and Review Commission, offer in ~~court~~ to confess judgment for part of the value claimed or part of the causes involved in the action. If (1) the appellant is present and refuses to accept such confession of judgment in full of his or her demands against the board in such action or the appellant fails to attend having had reasonable notice that the offer would be made, its amount, and the time of making it and (2) at trial the appellant does not recover more than was offered to be confessed, the appellant shall pay all the costs and fees the board incurred after making the offer. The offer shall not be deemed to be an admission of the cause of action or relief to which the appellant is entitled, and the offer shall not be given in evidence at the trial.

Sec. 153. Section 77-1511, Reissue Revised Statutes of Nebraska, is amended to read:

77-1511. The ~~district court~~ Tax Equalization and Review Commission shall hear appeals and cross appeals taken under section 77-1510 as in equity and without a jury, and determine anew all questions raised before the county board of equalization which relate to the liability of the property to assessment, or the amount thereof. The ~~court~~ commission shall affirm the action taken by the board unless evidence is adduced establishing that the action of the board was unreasonable or arbitrary, or unless evidence is adduced establishing that the property of the appellant is assessed too low. Any decision rendered by the ~~court~~ commission shall be certified to the county treasurer and to the officer charged with the duty of preparing the tax list, and if and when such decision becomes final, such officers shall correct their records accordingly.

Sec. 154. Section 77-1513, Reissue Revised Statutes of Nebraska, is amended to read:

77-1513. Whenever any person appeals to the ~~district court~~ Tax Equalization and Review Commission from the assessment of his or her property as fixed by the county board of equalization and the appeal is sustained in whole or in part, the costs of such appeal, including costs of witnesses, may be taxed by the ~~court~~ commission as it deems just. If the appeal is not sustained in whole or in part or if a cross appeal by the board is sustained in whole or in part, the cost of such appeal or cross appeal, including costs of witnesses, may be taxed by the ~~court~~ commission as it deems just. Whenever

any person appeals from the assessment of another as fixed by the county board of equalization and the appeal is sustained in whole or in part, the costs of such appeal may be taxed to the appellee. If the appeal is not sustained, the costs may be taxed to the appellant unless the appellant is the county assessor or county clerk in which case the costs shall be paid by the county.

Sec. 155. Section 77-1514, Revised Statutes Supplement, 1994, is amended to read:

77-1514. The county assessor shall prepare an abstract of the assessment rolls of his or her county on forms to be furnished by the ~~Tax~~ Commissioner Property Tax Administrator, showing the values as equalized and corrected by the county board of equalization and the agricultural and horticultural land valuation board, and shall forward it to the ~~State Board of Equalization and Assessment Property Tax Administrator~~ on or before July 1. The abstract shall show the taxable property in the county as required by the ~~Tax Commissioner Property Tax Administrator~~.

Sec. 156. Section 77-1515, Reissue Revised Statutes of Nebraska, is amended to read:

77-1515. If any county assessor ~~shall refuse or neglect refuses or neglects~~ to prepare an abstract of the assessment roll of his or her county and forward the same to the ~~State Board of Equalization and Assessment~~, it to the Property Tax Administrator as required in section 77-1514, he or she shall forfeit to the state the sum of one hundred dollars, to be recovered in a civil action in the name of the state. ~~The~~ and the certificate of the ~~board authenticated by its seal Property Tax Administrator~~, setting forth the failure of the county assessor to comply with the provisions of ~~said such~~ section, shall be prima facie evidence of such refusal or neglect on the trial of such action.

Sec. 157. Section 77-1601, Revised Statutes Supplement, 1994, as amended by section 1, Legislative Bill 167, Ninety-fourth Legislature, First Session, 1995, is amended to read:

77-1601. (1) The county board of equalization shall each year, on or before September 20, levy the necessary taxes for the current year. Before levying taxes for any other functions of county government, each county shall first levy a tax sufficient to enable the county board to provide medical, surgical, and hospital care for needy persons of the county. After making the levy for such purpose, the county board of equalization shall make the levy of taxes for county purposes. The levy shall include all county taxes necessary to cover the amounts required to be raised by taxation, as provided in the annual budget of the county for the current year, and shall include all township, city, school district, precinct, village, road district, and other taxes required by law to be certified to the county clerk and levied by the county board of equalization. Any such taxes regularly voted and certified to the county assessor, after the county board has made such levy and before the county clerk has completed the tax list, shall be levied by the county board of equalization, if within the limit of the law, and extended upon the tax list.

(2) Within thirty days after a levy has been made pursuant to this section, the county board of equalization upon its own motion may act to correct a clerical error which has resulted in the calculation of an incorrect levy. The county board of equalization shall hold a special hearing to determine what adjustment to the levy is proper, legal, or necessary. Notice of the place and time of such hearing shall be published at least five days prior to the date set for hearing in a newspaper of general circulation within the county. The published notice shall set forth (a) the time and place of the hearing, (b) the dollar amount at issue, and (c) a statement setting forth the nature of the error. Notice shall also be provided to the governing body of each political subdivision affected by the error.

(3) Upon the conclusion of the special hearing, the county board of equalization may issue a corrected levy if it determines the magnitude of the error warrants the action. The county board of equalization shall then order (a) the county assessor, county clerk, and county treasurer to revise assessment books, unit valuation ledgers, tax statements, and any other tax records to reflect the correction made and (b) the recertification of the information provided to the ~~Tax Commissioner Property Tax Administrator~~ pursuant to section 77-1613.01.

Sec. 158. Section 77-1606, Reissue Revised Statutes of Nebraska, is amended to read:

77-1606. Any taxpayer may appeal from the action of the county board of equalization in making the levy, if in the judgment of such taxpayer the levy is for an unlawful or unnecessary purpose, or in excess of the requirements of a county, within the same time and in the same manner as appeals are now taken from the action of the county board ~~in the allowance or~~

disallowance of claims against the county to the Tax Equalization and Review Commission. It shall not be necessary for such taxpayer to appear before the county board of equalization at the time of the making of the levy or prior thereto in order to entitle him or it ~~her~~ to such appeal. No appeal shall in any manner suspend the collection of any tax, nor the duties of the officers relating thereto during the pendency of the appeal, and all taxes affected thereby which may be collected shall be kept by the treasurer in a special fund without distribution.

Sec. 159. Section 77-1613.01, Revised Statutes Supplement, 1994, is amended to read:

77-1613.01. The county official who prepares the tax list of each county shall certify to the ~~Tax Commissioner~~ Property Tax Administrator, on or before December 1 of each year, the total taxable valuation, the respective levies, the total amount of all general taxes, county, municipal, school, and local, and, for statistical purposes, any other information deemed necessary by the ~~Tax Commissioner~~ Property Tax Administrator for the current year on forms prescribed and furnished by the ~~Tax Commissioner~~ Property Tax Administrator. ~~For tax year 1991, total taxable valuation shall include the value of personal property which was immediately prior to June 11, 1991, subject to tax for tax year 1991 but which is exempt from tax solely because of the changes made to section 77-262 by laws 1991, LB 829.~~

Sec. 160. Section 77-1613.02, Reissue Revised Statutes of Nebraska, is amended to read:

77-1613.02. The county assessor of any county, or the county clerk in those counties having unit tax ledgers which are prepared by the county clerk, may correct the tax list before the tax is paid, in case of clerical errors, and the county assessor of any county, or the county clerk in those counties having unit tax ledgers which are prepared by the county clerk, with the approval of the county board of any county, may correct the tax list before the tax is paid in case of erroneous assessments. The county board shall provide the county assessor, or the county clerk in those counties having unit tax ledgers which are prepared by the county clerk, with a firmly bound book for the entry of corrections of clerical errors and erroneous assessments, each correction being made in triplicate, each set of triplicate forms being consecutively numbered, and there shall be entered upon such form all data pertaining to the assessment which is to be corrected as the same appears on the original tax list together with the changes made in the assessment. The correction book shall show all additions and reductions, the amount of tax added or reduced, with the reason therefor, and the page upon which such change is to be made. The original copy shall be delivered to the county treasurer, the duplicate copy to the county clerk, and the triplicate copy shall remain in the firmly bound book in the office of the county assessor. The correction book and the journal for recording each entry shall be approved by the ~~Tax Commissioner~~ Property Tax Administrator and be kept by the county assessor, or the county clerk in those counties having unit tax ledgers which are prepared by the county clerk. The county treasurer shall thereupon correct the tax list to conform to the correction copy and all changes shall be made in red ink, drawing a line through the original or erroneous figures, but not erasing the same. No county assessor, or the county clerk in those counties having unit tax ledgers which are prepared by the county clerk, shall reduce or increase the valuation of any property, real or personal, upon the pretext of correcting an erroneous assessment. Any county assessor or county clerk who shall willfully reduce or increase the valuation of any property, as provided in this section, shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than twenty dollars nor more than one hundred dollars.

Sec. 161. Section 77-1615.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-1615.01. The county board of any county is authorized to direct that for all purposes of assessment of property, and for the levy and collection of taxes and special assessments, there shall be used tax records or random access devices suitable for use in connection with electronic data processing equipment or other mechanical office equipment, in accordance with procedures to be approved by the ~~Tax Commissioner~~ Property Tax Administrator. Such county board is also authorized to direct that a statement of taxes and special assessments be mailed or otherwise delivered to the person, firm, association, or corporation against whom such taxes are assessed. ~~Failure to~~ PROVIDED, that failure to receive such statement shall not relieve the taxpayer from any liability to pay such taxes or assessments and penalties accrued thereon.

Sec. 162. Section 77-1623, Reissue Revised Statutes of Nebraska, is amended to read:

77-1623. If any such corporate authorities, whose duty it is, under the provisions of sections 77-1601 to 77-1624, to so levy and collect the tax necessary to pay off any such judgment, shall fail, refuse, or neglect to make provision for the immediate payment of such judgments, after request made by the owner or any person having an interest therein, such officers shall become personally liable to pay such judgments, and the party or parties interested may have an action against such defaulting officers to recover the money due on the judgment, or he, she, or they having such interest may apply to the district court of the county in which the judgment is obtained, or to the judge thereof in vacation, Tax Equalization and Review Commission for a writ of mandamus to compel the proper officers to proceed to collect the necessary amount of money to pay off such indebtedness, as provided in said such sections. When a proper showing is made by the applicant for said the writ, it shall be the duty of the court or judge, as the case may be, commission to grant and issue the writ to the delinquents, and the proceedings to be had in the premises shall conform to the rules and practice of the court commission, and the laws in such cases made and provided.

Sec. 163. Section 77-1704.01, Reissue Revised Statutes of Nebraska, is amended to read:

77-1704.01. The county treasurer shall include with each tax notice or receipt to every taxpayer the following information:

- (1) The total amount of aid from state sources appropriated to the county and each city, village, and school district in the county; and
- (2) The net amount of property taxes to be levied by the county and each city, village, and school district in the county.

The necessary form for furnishing such information shall be prescribed by the Department of Revenue Property Tax Administrator. The necessary information required by subdivision (1) of this section shall be furnished to the county treasurer by the Department of Revenue Property Tax Administrator prior to October 1 of each year. The form prescribed by the Department of Revenue Property Tax Administrator shall contain the following statement:

THE AMOUNT OF STATE FUNDS SHOWN ABOVE WOULD HAVE BEEN ADDITIONAL PROPERTY TAXES IF NOT ALLOCATED TO THE COUNTY, CITY, VILLAGE, AND SCHOOL DISTRICT BY THE LEGISLATURE.

Sec. 164. Section 77-1705, Reissue Revised Statutes of Nebraska, is amended to read:

77-1705. The tax receipt shall be substantially in the following form, with such additions and amendments thereto as may be necessary to make it conform to law:

\$..... Treasurer's Office County, Nebraska 19....
 Received of
 In full or one-half of the taxes for the year 19.... on the following described property:

 Deputy Treasurer.

In each county the amount in dollars of state tax and the amount in dollars of county tax shall be carried out on the face of the tax receipt in separate columns unless there shall be printed on the face of each tax receipt in terms of percent a legend which discloses the ratio which county tax and state tax in each county bears to the total consolidated state and county tax in each county. If the tax be paid upon real estate, the receipt shall describe the same as described in the tax list and give the valuation thereof; and either on the reverse side of the receipt or, on a tax table sheet which the treasurer shall make available to the taxpayer in such form as prescribed by the Tax Commissioner Property Tax Administrator, there shall be a statement giving the amount of each kind of tax for each one thousand dollars of property value and the statement shall disclose the amount of each kind of tax for each one thousand dollars of property value for the previous year; and if upon personal property, it shall state the value thereof.

Sec. 165. Section 77-1716, Reissue Revised Statutes of Nebraska, as amended by section 31, Legislative Bill 452, Ninety-fourth Legislature, First Session, 1995, is amended to read:

77-1716. The county treasurer may, at any time prior to January December 1 of each year, send a notice to each person on the personal tax roll, advising such taxpayer of the amount of personal taxes for that year. At any time after January December 1 and before July 1 next following, the county treasurer is required to notify by mail any taxpayer, whose personal tax is delinquent, on account of such taxpayer not having paid the personal taxes, or the first installment thereof, on January December 1, as required by law, of the amount of such delinquent personal tax. The notice shall also recite that unless the entire tax is paid by July 1, next following, distress

warrant will be issued therefor.

Sec. 166. Section 77-1735, Revised Statutes Supplement, 1994, is amended to read:

77-1735. (1) Except as provided in subsection (2) of this section, if a person makes a payment to any county or other political subdivision of any property tax or any payment in lieu of tax with respect to property and claims the tax or any part thereof is illegal for any reason other than the valuation or equalization of the property, he or she may, at any time within thirty days after such payment, make a written claim for refund of the payment from the county treasurer to whom paid. The county treasurer shall immediately forward the claim to the county board. If the payment is not refunded within ninety days thereafter, the claimant may sue the county board for the amount so claimed. Upon the trial, if it is determined that such tax or any part thereof was illegal, judgment shall be rendered therefor and such judgment shall be collected in the manner prescribed in section 77-1736.06. If the tax so claimed to be illegal was not collected for all political subdivisions in a consolidated tax district and if a suit is brought to recover the tax paid or a part thereof, the plaintiff in such action shall join as defendants in a single suit as many of the political subdivisions as he or she seeks recovery from by stating in the petition a claim against each such political subdivision as a separate cause of action. For purposes of this section, illegal shall mean a tax levied for an unauthorized purpose or as a result of fraudulent conduct on the part of the taxing officials. A person shall not be entitled to a refund pursuant to this section of any property tax paid or any payment in lieu of tax unless the person has filed a claim with the county treasurer or prevailed in an action against the county. If a county refuses to make a refund, a person shall not be entitled to a refund unless he or she prevails in an action against the county on such claim even if another person has successfully challenged a similar tax or payment.

(2) For property valued by the state, for purposes of a claim for refund pursuant to this section, the Tax Commissioner Property Tax Administrator shall perform the functions of the county treasurer and county board. Upon approval of the claim by the Tax Commissioner Property Tax Administrator or a court of competent jurisdiction, the Tax Commissioner Property Tax Administrator shall certify the amount of the refund to the county treasurer to whom this tax was paid or distributed. The refund shall be made in the manner prescribed in section 77-1736.06.

Sec. 167. Section 77-1736.06, Revised Statutes Supplement, 1994, is amended to read:

77-1736.06. The following procedure shall apply when making a property tax refund:

(1) Within thirty days of the entry of a final nonappealable order or other action approving a refund or, for property valued by the state, within thirty days of a recertification of value by the Tax Commissioner Property Tax Administrator pursuant to section 77-1775 or 77-1775.01, the county assessor shall determine the amount of refund due the person entitled to the refund, certify that amount to the county treasurer, and send a copy of such certification to the person entitled to the refund. Within thirty days from the date the county assessor certifies the amount of the refund, the county treasurer shall notify each political subdivision of its respective share of the refund, except that for any political subdivision whose share of the refund is two hundred dollars or less, the county board may waive this notice requirement. Notification shall be by first-class mail, postage prepaid, to the last-known address of record of the political subdivision. The county treasurer shall pay the refund from funds in his or her possession belonging to any political subdivision which received any part of the tax or penalty being refunded. If sufficient funds are not available or the political subdivision, within thirty days of the mailing of the notice by the county treasurer, if applicable, certifies to the county treasurer that a hardship would result and create a serious interference with its governmental functions if the refund of the tax or penalty is paid, the county treasurer shall register the refund or portion thereof which remains unpaid as a claim against such political subdivision and shall issue the person entitled to the refund a receipt for the registration of the claim. The certification by a political subdivision declaring a hardship shall be binding upon the county treasurer;

(2) The refund of a tax or penalty or the receipt for the registration of a claim made or issued pursuant to this section shall be satisfied in full as soon as practicable and in no event later than five years from the date the final order or other action approving a refund is entered. The governing body of the political subdivision shall make provisions in its budget for the amount of any refund or claim to be satisfied pursuant to this

section. If a receipt for the registration of a claim is given:

(a) Such receipt shall be applied to satisfy any tax levied or assessed by that political subdivision next falling due from the person holding the receipt after the sixth next succeeding levy is made on behalf of the political subdivision following the final order or other action approving the refund; and

(b) To the extent the amount of such receipt exceeds the amount of such tax liability, the unsatisfied balance of the receipt shall be paid and satisfied within the five-year period prescribed in this subsection from a combination of a credit against taxes anticipated to be due to the political subdivision during such period and cash payment from any funds expected to accrue to the political subdivision pursuant to a written plan to be filed by the political subdivision with the county treasurer no later than thirty days after the claim against the political subdivision is first reduced by operation of a credit against taxes due to such political subdivision.

If a political subdivision fails to fully satisfy the refund or claim prior to the sixth next succeeding levy following the entry of a final nonappealable order or other action approving a refund, interest shall accrue on the unpaid balance commencing on the sixth next succeeding levy following such entry or action at the rate set forth in section 45-103;

(3) The county treasurer shall mail the refund or the receipt by first-class mail, postage prepaid, to the last-known address of the person entitled thereto. Multiple refunds to the same person may be combined into one refund or credit. If a refund is not claimed by June 1 of the year following the year of mailing, the refund shall be canceled and the resultant amount credited to the various funds originally charged;

(4) When the refund involves property valued by the state, the ~~Tax Commissioner~~ Property Tax Administrator shall be authorized to negotiate a settlement of the amount of the refund or claim due pursuant to this section on behalf of the political subdivision from which such refund or claim is due. Any political subdivision which does not agree with the settlement terms as negotiated may reject such terms, and the refund or claim due from the political subdivision then shall be satisfied as set forth in this section as if no such negotiation had occurred;

(5) In the event that the Legislature appropriates state funds to be disbursed for the purposes of satisfying all or any portion of any refund or claim, the ~~Tax Commissioner~~ Property Tax Administrator shall order the county treasurer to disburse such refund amounts directly to the persons entitled to the refund in partial or total satisfaction of such persons' claims. The county treasurer shall disburse such amounts within forty-five days after receipt thereof; and

(6) If all or any portion of the refund is reduced by way of settlement or forgiveness by the person entitled to the refund, the proportionate amount of the refund that was paid by an appropriation of state funds shall be reimbursed by the county treasurer to the State Treasurer within forty-five days after receipt of the settlement agreement or receipt of the forgiven refund. The amount so reimbursed shall be credited to the General Fund.

Sec. 168. Section 77-1738, Reissue Revised Statutes of Nebraska, is amended to read:

77-1738. Whenever it shall appear from the return of the treasurer that any person charged with taxes on personalty has removed out of the county, or has died and left no property out of which the taxes can be paid, or if from any cause it is impossible to collect such taxes, it shall be the duty of the county board to cause the same, after the expiration of two years, in which the treasurer shall use due diligence to collect the same, to be stricken from the tax list. The county clerk shall certify the amount of state taxes so stricken off to the ~~Tax Commissioner~~, who shall credit the county therewith in adjustment of the accounts of the county treasurer; ~~PROVIDED~~; that whenever any real estate shall have been sold at tax sale for less than the amount of unpaid taxes assessed against such real estate, the county treasurer of the county in which said real estate shall be located shall make a statement to the ~~Tax Commissioner~~ showing the amount of such state taxes rendered uncollectible by reason of such real estate having been sold for less than all the taxes assessed against it at such tax sale; whereupon the ~~Tax Commissioner~~ shall credit said county with all such amounts of state taxes rendered uncollectible by such tax sale or sales.

Sec. 169. Section 77-1749, Reissue Revised Statutes of Nebraska, is amended to read:

77-1749. The ~~Tax Commissioner~~ Property Tax Administrator and other proper authority or person shall in his or her final settlement with the treasurer allow him or her credit for the amount so certified, but if the ~~Tax~~

Commissioner Property Tax Administrator or other proper authority or person shall have reason to believe that the amount stated in the certificate is not correct, or that the allowance was illegally made, he or she shall return the same for correction. When it ~~shall appear~~ appears to be necessary in the opinion of the Tax Commissioner Property Tax Administrator or other proper authority or person, he or she shall designate and appoint some competent person to examine the treasurer's books and statement of settlement, and the person so designated and appointed shall have access to the treasurer's books and papers appertaining to such treasurer's office or settlement for the purpose of making such examination.

Sec. 170. Section 77-1750, Reissue Revised Statutes of Nebraska, is amended to read:

77-1750. In all cases when the adjustment is made with the county clerk, the county board shall, at the first session thereafter, examine such settlement and if found correct shall enter an order to that effect. If any omission or error is found, the board shall cause the same to be corrected and a correct statement of the facts in the case forwarded to the Tax Commissioner Property Tax Administrator and other proper authority or person, who shall correct and adjust the treasurer's accounts accordingly.

Sec. 171. Section 77-1760, Reissue Revised Statutes of Nebraska, is amended to read:

77-1760. If any county treasurer fails to make reports and payments required by sections ~~77-1751 to section 77-1759~~, for five days after demand made, the Tax Commissioner or such other proper authority or person may bring suit upon his or her bond.

Sec. 172. Section 77-1763, Reissue Revised Statutes of Nebraska, is amended to read:

77-1763. Upon the failure of any county treasurer to make settlement with the Tax Commissioner Property Tax Administrator, the Tax Commissioner Property Tax Administrator shall sue the treasurer and his or her surety upon the bond of such treasurer, or sue the treasurer in such form as may be necessary, and take all such proceedings, either upon such bond or otherwise, as may be necessary to protect the interest of the state.

Sec. 173. Section 77-1766, Reissue Revised Statutes of Nebraska, is amended to read:

77-1766. Cities, towns, villages, or corporate authorities or persons aggrieved may prosecute suit against any treasurer, or other officer collecting or receiving funds for their use, upon his or her bond, in the name of the State of Nebraska, for their use in any court of competent jurisdiction, whether the bond has been put in suit at the instance of the Tax Commissioner Property Tax Administrator or not. Cities, towns, villages, and other corporate authorities or persons shall have the same right in any suits or proceedings in their behalf as is provided in case of suits by or on behalf of the state.

Sec. 174. Section 77-1775, Revised Statutes Supplement, 1994, is amended to read:

77-1775. (1) In case of payment of any taxes upon property valued by the state made as a result of a clerical error or honest mistake or misunderstanding, except as to valuation or equalization, on the part of the taxing officials of the state or the taxpayer, the taxpayer shall make a written claim for a credit or refund of the tax paid within two years from the date the tax was due. The claim shall set forth the amount of the overpayment and the reasons therefor.

(2) The Tax Commissioner Property Tax Administrator may approve or disapprove the claim in whole or part without a hearing. The Tax Commissioner Property Tax Administrator shall grant a hearing prior to taking any action on a claim for refund or credit if requested in writing by the taxpayer when the claim is filed or prior to any action being taken on the claim by the Tax Commissioner Property Tax Administrator. If the claim is denied in whole or part, the taxpayer may appeal the decision, and the appeal shall be in accordance with the Administrative Procedure Act Tax Equalization and Review Commission Act.

(3) Upon approval of the claim by the Tax Commissioner Property Tax Administrator or a court of competent jurisdiction, the Tax Commissioner Property Tax Administrator shall certify the amount of the refund or credit to the county treasurer to whom the tax was paid or distributed. If only valuation was previously certified to a county or counties, then the Tax Commissioner Property Tax Administrator shall certify the value resulting from the final decision to the official who received the original valuation which was changed by the final order. The refund shall be made in the manner prescribed in section 77-1736.06. The ordering of a refund or credit pursuant to this section shall not have a dispositional effect on any similar claim for

refund or credit made by another taxpayer.

Sec. 175. Section 77-1775.01, Revised Statutes Supplement, 1994, is amended to read:

77-1775.01. (1) When property is valued or equalized by the Tax Commissioner, or the State Board of Equalization and Assessment, the Property Tax Administrator, or the Tax Equalization and Review Commission and an appeal is taken from such valuation or equalization and the final result of such appeal establishes a lower value than that upon which taxes have been paid, the amount of taxes paid on the value in excess of that finally determined value shall be refunded to the prevailing party who has paid such tax. If an appeal results in a lower value, only the taxpayer who is a party to the appeal shall be entitled to a refund.

(2) Upon receipt of a final nonappealable order, the board or commission shall meet or the Tax Commissioner Property Tax Administrator shall act within thirty days thereof to order the recertification of valuation of the prevailing party.

(3) The Tax Commissioner Property Tax Administrator upon receiving a certified copy of such recertification order shall recertify the amount of the valuation or tax to the county assessor of the county or counties to which the tax was paid or distributed. If only valuation was previously certified to a county or counties, then the Tax Commissioner Property Tax Administrator shall recertify the value resulting from the final nonappealable order to the county assessor who received the original valuation which was changed by the final order. The refund shall be made in the manner prescribed in section 77-1736.06. Nothing in this section shall be construed to mean that any taxpayer shall have had to pay any tax under protest or claim a refund of the tax paid.

Sec. 176. Section 77-3438, Revised Statutes Supplement, 1994, is amended to read:

77-3438. (1) Except as provided in sections 77-3437, 77-3438.01, 77-3439, and 77-3440, no governing body shall adopt a budget statement pursuant to section 13-506 or pursuant to the charter or ordinance of a city with a home rule charter in which the anticipated aggregate receipts from property taxes for any fiscal year exceed the anticipated aggregate receipts from property taxes for the prior fiscal year or, for a governing body which budgeted no revenue to be received from the levy of taxes on real and personal property in such year, the most recent fiscal year prior to such year for which the governing body did budget to receive property taxes.

(2) A governing body may increase property taxes by a specific dollar amount greater than that permitted by subsection (1) of this section if a final order of a court, the State Board of Equalization and Assessment, or the Tax Commissioner, the Tax Equalization and Review Commission, or the Property Tax Administrator from which no appeal is taken requires reimbursement by the governing body of property taxes to a taxpayer. The increase shall not exceed the amount of the reimbursement.

(3) A county board may increase property taxes by a specific dollar amount greater than that permitted by subsection (1) of this section not to exceed the dollar amount of reduction in state aid to the county resulting from the changes made to section 77-27,136 by Laws 1992, LB 1063.

(4) For political subdivisions that have annexed property or have consolidated after December 15, 1989, or for a new educational service unit organized pursuant to section 79-2202.06 or an existing educational service unit, which new or existing unit has added or received a school district or portion thereof, the anticipated aggregate receipts from property taxes shall be computed based on the combined aggregate property taxes of each subdivision in the fiscal year immediately preceding consolidation, annexation, or addition. The estimated amount of property taxes for the immediately preceding fiscal year from the annexed, added, or consolidated property to be added to the property taxes of the political subdivision shall be computed by multiplying the property tax levy of the political subdivision for the immediately preceding fiscal year by the taxable valuation of the annexed, added, or consolidated property for the immediately preceding fiscal year.

Sec. 177. Section 77-3519, Reissue Revised Statutes of Nebraska, is amended to read:

77-3519. In any case when the county assessor rejects an application for homestead exemption, such applicant may obtain a hearing before the county board of equalization by filing a written complaint with the county clerk within thirty days from receipt of the notice from the county assessor showing such rejection. Such complaint shall specify his or her grievances and the pertinent facts in relation thereto, in ordinary and concise language and without repetition, and in such manner as to enable a person of common understanding to know what is intended. The board may take

evidence pertinent to such complaint, and for that purpose may compel the attendance of witnesses and the production of books, records, and papers by subpoena. The taxpayer shall have the right to appeal from the finding of the board with reference to the application for homestead exemption, as provided by law for appeals from the county board of equalization on questions of valuation of property; and the appeal shall be taken in the same manner and subject to the same requirements to the Tax Equalization and Review Commission.

Sec. 178. Section 77-3902, Reissue Revised Statutes of Nebraska, is amended to read:

77-3902. For purposes of the Uniform State Tax Lien Registration and Enforcement Act:

(1) Appropriate filing officer shall mean the clerk of any county in which the taxpayer resides, in which the principal office of the corporation is located, or in which the registered agent is located or the register of deeds of any county in which real property belonging to the taxpayer is situated; and

(2) Any reference to tax, taxes, fee, or tax program shall be construed to include any tax or fee which is imposed by the laws of this state and administered or collected and enforced by the Tax Commissioner or Property Tax Administrator, unless a tax lien is otherwise provided for by law.

Sec. 179. Section 77-3903, Reissue Revised Statutes of Nebraska, is amended to read:

77-3903. (1) When a notice of a lien provided for in the Uniform State Tax Lien Registration and Enforcement Act is filed, the appropriate filing officer shall enter the notice in the alphabetical state tax lien index, showing on one line the name and residence of the person liable named in such notice, the social security number or the federal tax identification number of such person, the Tax Commissioner's or Property Tax Administrator's serial number of such notice, the date and hour of filing, and the amount due. All such notices of lien shall be retained in numerical order in a file designated state tax lien notices, except that in offices filing by the roll form of microfilm pursuant to section 23-1517.01, the original notices need not be retained. The appropriate filing officer, upon the day of receipt of a lien filed pursuant to the Uniform State Tax Lien Registration and Enforcement Act, shall transmit to the Secretary of State the information required by subsection (2) of section 9-414, Uniform Commercial Code.

(2) The fee for filing, releasing, continuing, subordinating, or terminating such liens shall be as prescribed in section 9-403, Uniform Commercial Code. The retention and distribution of such fees shall be as provided in subsection (9) of section 9-403, Uniform Commercial Code.

(3) The appropriate filing officer shall bill the Tax Commissioner or Property Tax Administrator on a monthly basis for fees for documents filed with such officer. No payment of any fee shall be required at the time of filing any such lien document.

Sec. 180. Section 77-3904, Revised Statutes Supplement, 1994, is amended to read:

77-3904. (1) If any person liable to pay any tax or fee under any tax program administered by the Tax Commissioner or Property Tax Administrator neglects or refuses to pay such tax or fee after demand, the amount of such tax or fee, including any interest, penalty, and additions to such tax and such additional costs that may accrue, shall be a lien in favor of the State of Nebraska upon all property and rights to property, whether real or personal, then owned by such person or acquired by him or her thereafter and prior to the expiration of the lien. Unless another date is specifically provided by law, such lien shall arise at the time of the assessment and shall remain in effect (a) for three years from the time of the assessment if the notice of lien is not filed for record with the appropriate filing officer, (b) for ten years from the time of filing for record with the appropriate filing officer, or (c) until such amounts have been paid or a judgment against such person arising out of such liability has been satisfied or has become unenforceable by reason of lapse of time, unless a continuation statement is filed prior to the lapse.

(2) The Tax Commissioner or Property Tax Administrator may, within three years after the time of assessment, file for record with the appropriate filing officer a notice of lien specifying the year the tax was due, the tax program, and the amount of the tax and any interest, penalty, or addition to such tax that are due. Such notice shall contain the name and last-known address of the taxpayer, the taxpayer's social security number or federal identification number, the Tax Commissioner's or Property Tax Administrator's serial number, and a statement to the effect that the Tax Commissioner or Property Tax Administrator has complied with all provisions of the law for the

particular tax program which he or she administers in the determination of the amount of the tax and any interest, penalty, and addition to such tax required to be paid.

(3) A lien imposed pursuant to the Uniform State Tax Lien Registration and Enforcement Act shall be valid against any subsequent creditor when notice of such lien and the amount due has been filed by the Tax Commissioner or Property Tax Administrator with the appropriate filing officer. In the case of any prior mortgage on real property or secured transaction covering personal property so written as to secure a present debt and future advances, the lien provided in the act, when notice thereof has been filed with the appropriate filing officer, shall be subject to such prior lien unless the Tax Commissioner or Property Tax Administrator has notified the lienholder in writing of the recording of such tax lien, in which case the lien of any indebtedness thereafter created under such mortgage or secured transaction shall be junior to the lien provided for in the act.

(4) The lien may, within ten years from the date of filing for record of the notice of lien with the appropriate filing officer, be extended by filing for record a continuation statement. Upon timely filing of the continuation statement, the effectiveness of the original notice shall be continued for ten years after the last date to which the filing was effective. After such period the notice shall lapse in the manner prescribed in subsection (1) of this section unless another continuation statement is filed prior to such lapse.

(5) When a termination statement of any tax lien issued by the Tax Commissioner or Property Tax Administrator is filed in the office where the notice of lien is filed, the appropriate filing officer shall enter such statement with the date of filing in the state tax lien index where notice of the lien so terminated is entered and shall file the termination statement with the notice of the lien.

(6) The Tax Commissioner or Property Tax Administrator may at any time, upon request of any party involved, release from a lien all or any portion of the property subject to any lien provided for in the Uniform State Tax Lien Registration and Enforcement Act or subordinate a lien to other liens and encumbrances if he or she determines that (a) the tax amount and any interest, penalties, and additions to such tax have been paid or secured sufficiently by a lien on other property, (b) the lien has become legally unenforceable, (c) a surety bond or other satisfactory security has been posted, deposited, or pledged with the Tax Commissioner or Property Tax Administrator in an amount sufficient to secure the payment of such taxes and any interest, penalties, and additions to such taxes, or (d) the release, partial release, or subordination of the lien will not jeopardize the collection of such taxes and any interest, penalties, and additions to such tax.

(7) A certificate by the Tax Commissioner or Property Tax Administrator stating that any property has been released from the lien or the lien has been subordinated to other liens and encumbrances shall be conclusive evidence that the property has in fact been released or the lien has been subordinated pursuant to the certificate.

Sec. 181. Section 77-3905, Revised Statutes Supplement, 1994, is amended to read:

77-3905. (1) At any time within three years after any amount of tax to be collected under any tax program administered by the Tax Commissioner or Property Tax Administrator is assessed or within ten years after the last filing for record as set forth in the Uniform State Tax Lien Registration and Enforcement Act, the Tax Commissioner or Property Tax Administrator may bring an action in the courts of this state, any other state, or the United States in the name of the people of the State of Nebraska to collect the delinquent amount together with penalties, any additions to such tax, costs, and interest.

(2) The Attorney General shall prosecute the action, and the rules of civil procedure relating to service of summons, pleadings, proofs, trials, and appeals shall be applicable to the proceedings.

(3) In the action, a writ of attachment may issue, and no bond or affidavit previous to the issuing of the attachment shall be required.

(4) In the action, a certificate by the Tax Commissioner or Property Tax Administrator showing the delinquency shall be prima facie evidence of the determination of such tax or the amount of such tax, the delinquency of the amounts set forth, and the compliance by the Tax Commissioner or Property Tax Administrator with all provisions of the applicable tax program which he or she administers in relation to the computation and determination of the amounts set forth.

(5) The tax amounts required to be paid by any person under any tax

program administered by the Tax Commissioner or Property Tax Administrator together with any interest, penalties, and additions to such tax shall be satisfied first in any of the following cases: When the person is insolvent; when the person makes a voluntary assignment of his or her assets; when the estate of the person in the hands of executors, personal representatives, administrators, or heirs is insufficient to pay all the debts due from the deceased; or when the estate and effects of an absconding, concealed, or absent person required to pay any amount under any tax program administered by the Tax Commissioner or Property Tax Administrator are levied upon by process of law.

(6) Any tax which by law must be deducted and withheld by an employer or payor or is collected by a retailer or any other designated person as agent for the State of Nebraska on any transaction governed by a tax program administered by the Tax Commissioner or Property Tax Administrator shall constitute a trust fund in the hands of the employer, payor, or retailer or such other designated person and shall be owned by the state as of the time the tax is deducted and withheld or is owing to the employer, payor, or retailer or such other designated person.

Sec. 182. Section 77-3906, Revised Statutes Supplement, 1994, is amended to read:

77-3906. (1) In addition to all other remedies or actions provided by law under any tax program administered by the Tax Commissioner or Property Tax Administrator, it shall be lawful for the Tax Commissioner or Property Tax Administrator, after making demand for payment, to collect any delinquent taxes, together with any interest, penalties, and additions to such tax by distraint and sale of the real and personal property of the taxpayer. If the Tax Commissioner or Property Tax Administrator finds that the collection of any tax is in jeopardy pursuant to section 77-2710, 77-27,111, or 77-4311, notice and demand for immediate payment of such tax may be made by the Tax Commissioner or Property Tax Administrator and, upon failure or refusal to pay such tax, collection by levy shall be lawful.

(2) In case of failure to pay taxes or deficiencies, the Tax Commissioner or Property Tax Administrator, or his or her authorized employee, may levy or, by warrant issued under his or her own hand, authorize a sheriff or duly authorized employee of the Department of Revenue to levy upon, seize, and sell such real and personal property belonging to the taxpayer, except exempt property, as is necessary to satisfy the liability for the payment of the amount due. As used in this section, exempt property shall mean such property as is exempt from execution under the laws of this state.

(3) When a warrant is issued or a levy is made by the Tax Commissioner or Property Tax Administrator, or his or her duly authorized employee, for the collection of any tax and any interest, penalty, or addition to such tax imposed by law under any tax program administered by the Tax Commissioner or Property Tax Administrator or for the enforcement of any tax lien authorized by the Uniform State Tax Lien Registration and Enforcement Act, such warrant or levy shall have the same force and effect of a levy and sale pursuant to a writ of execution. Such warrant or levy may be issued and sale made pursuant to it in the same manner and with the same force and effect of a levy and sale pursuant to a writ of execution. The Tax Commissioner or Property Tax Administrator shall pay the levying sheriff the same fees, commissions, and expenses pursuant to such warrant as are provided by law for similar services pursuant to a writ of execution, except that fees for publications in a newspaper shall be subject to approval by the Tax Commissioner or Property Tax Administrator. Such fees, commissions, and expenses shall be an obligation of the taxpayer and may be collected from the taxpayer by virtue of the warrant. Any such warrant shall show the name and last-known address of the taxpayer, the identity of the tax program, the year for which such tax and any interest, penalty, or addition to such tax is due and the amount thereof, the fact that the Tax Commissioner or Property Tax Administrator has complied with all provisions of the law for the applicable tax program which he or she administers in the determination of the amount required to be paid, and that the tax and any interest, penalty, or addition to such tax is due and payable according to law.

(4)(a) Any person upon whom a levy is served who fails or refuses to honor the levy without cause may be held liable for the amount of the levy up to the value of the assets of the taxpayer under his or her control at the time the levy was served or thereafter. Such person may be subject to collection provisions as set forth in the act.

(b) The effect of a levy on salary, wages, or other regular payments due to or received by a taxpayer shall be continuous from the date the levy is served until the amount of the levy, with accrued interest, is satisfied.

(5) Notice of the sale and the time and place of the sale shall be

given, to the delinquent taxpayer and to any other person with an interest in the property who has filed for record with the appropriate filing officer on such property, in writing at least twenty days prior to the date of such sale in the following manner: The notice shall be sent by certified mail, return receipt requested, to the taxpayer and to any other person with such interest at his or her last-known residence or place of business in this state. The notice shall also be given by publication at least once each week for four weeks prior to the date of the sale in the newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in the county, notice shall be posted in three public places in the county twenty days prior to the date of the sale. The notice shall contain a description of the property to be sold, a statement of the type of tax due and of the amount due, including interest, penalties, additions to tax, and costs, the name of the delinquent taxpayer, and the further statement that unless the amount due, including interest, penalties, additions to tax, and costs, is paid on or before the time fixed in the notice for the sale or such security as may be determined by the Tax Commissioner or Property Tax Administrator is placed with the Tax Commissioner or Property Tax Administrator, or his or her duly authorized representative, on or before such time, the property, or so much of it as may be necessary, will be sold in accordance with law and the notice.

(6) At the sale the Tax Commissioner or Property Tax Administrator, or his or her duly authorized representative, shall sell the property in accordance with law and the notice and shall deliver to the purchaser a bill of sale for the property. The bill of sale shall vest the interest or title of the person liable for the amount in the purchaser. The unsold portion of any property seized shall remain in the custody and control of the Tax Commissioner or Property Tax Administrator, or his or her duly authorized representative, until offered for sale again in accordance with this section or redeemed by the taxpayer.

(7) Whenever any property which is seized and sold under this section is not sufficient to satisfy the claim of the state for which distraint or seizure is made, the sheriff or duly authorized employee of the Department of Revenue or Property Tax Administrator may thereafter, and as often as the same may be necessary, proceed to seize and sell in like manner any other property liable to seizure of the taxpayer against whom such claim exists until the amount due from such taxpayer, together with all expenses, is fully paid.

(8) If after the sale the money received exceeds the total of all amounts due the state, including any interest, penalties, additions to tax, and costs, and if there is no other interest in or lien upon such money received, the Tax Commissioner or Property Tax Administrator shall return the excess to the person liable for the amounts and obtain a receipt. If any person having an interest or lien upon the property files with the Tax Commissioner or Property Tax Administrator prior to the sale notice of his or her interest or lien, the Tax Commissioner or Property Tax Administrator shall withhold any excess pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the person liable for the amount is not available, the Tax Commissioner or Property Tax Administrator shall deposit the excess money with the State Treasurer, as trustee for the owner, subject to the order of the person liable for the amount or his or her heirs, successors, or assigns. No interest earned, if any, shall become the property of the person liable for the amount.

(9) All persons and officers of companies or corporations shall, on demand of a sheriff or duly authorized employee of the Department of Revenue about to distraint or having distrained any property or right to property, exhibit all books containing evidence or statements relating to the property or rights of property liable to distraint for the tax due.

Sec. 183. Section 77-3907, Reissue Revised Statutes of Nebraska, is amended to read:

77-3907. (1) To enforce collection of any tax not paid when due, the Tax Commissioner or Property Tax Administrator may make demand upon any security which is provided for by law and which has been submitted to the Tax Commissioner or Property Tax Administrator on behalf of the person liable for the tax, together with any interest, penalties, additions to tax, and costs thereon. The security may, if necessary, be sold by the Tax Commissioner or Property Tax Administrator in the manner provided by section 77-27,131.

(2) The Tax Commissioner or Property Tax Administrator may abate the unpaid portion of the assessment of any tax, or other liability in respect thereof, if he or she determines that the administration and collection costs involved would not warrant collection of the amount due.

Sec. 184. Section 77-3908, Reissue Revised Statutes of Nebraska, is amended to read:

77-3908. (1) No injunction or writ of mandamus or other legal or equitable process shall issue in any suit, action, or proceeding in any court against this state to enjoin the collection of any tax, fee, or any amount of tax required to be collected under any tax program administered by the Tax Commissioner or Property Tax Administrator.

(2) The methods of enforcement and collection provided in the Uniform State Tax Lien Registration and Enforcement Act, including distraint and sale, shall be fully independent so that pursuit of any one method shall not be conditioned upon pursuit of any other, nor shall pursuit of any one method in any way affect or limit the right of the Tax Commissioner or Property Tax Administrator to subsequently pursue any of the other methods of enforcement or collection.

Sec. 185. Section 79-3809, Reissue Revised Statutes of Nebraska, is amended to read:

79-3809. (1) On or before July 1 for 1994 and on or before June 1 for each year thereafter, the Department of Revenue Property Tax Administrator shall compute and certify to the State Department of Education the adjusted valuation of each district for each class of property in each such district so that the valuation of property for each district, for purposes of determining state aid pursuant to the Tax Equity and Educational Opportunities Support Act, shall reflect as nearly as possible state aid value as defined in subsection (2) of this section. Establishment of the adjusted valuation shall be based on assessment practices established by rule and regulation adopted and promulgated by the Department of Revenue Property Tax Administrator. The assessment practices may include, but not be limited to, the appraisal techniques listed in section 77-112.

(2) For purposes of this section, state aid value shall mean:

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

(b) For agricultural land, eighty percent of market value as provided in sections 77-1359 to 77-1367 and 77-1371;

(c) For personal property other than motor vehicles, the net book value as defined in section 77-120; and

(d) For motor vehicles, the value established pursuant to section 77-1239.

(3) For 1995 and each year thereafter, prior to July 1 any school district may file with the Department of Revenue Property Tax Administrator written objections to the adjusted valuations prepared by the department Property Tax Administrator, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Tax Commissioner Property Tax Administrator shall fix a time for a hearing, ~~to be held prior to August 1.~~ Either party shall be permitted to introduce any evidence in reference thereto. Prior to ~~September~~ December 1, the Tax Commissioner Property Tax Administrator shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Tax Commissioner Property Tax Administrator shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the Tax Commissioner Property Tax Administrator may be appealed, ~~and the appeal shall be in accordance with the Administrative Procedure Act to the Tax Equalization and Review Commission.~~

(4) For 1994, prior to August 1 any school district may file with the Department of Revenue written objections to the adjusted valuations prepared by the department, stating the reasons why such adjusted valuations are not the valuations required by subsection (2) of this section. The Tax Commissioner shall fix a time for a hearing to be held prior to August 15. Either party shall be permitted to introduce any evidence in reference thereto. Prior to September 1, the Tax Commissioner shall enter an order modifying or declining to modify, in whole or in part, the adjusted valuations and shall certify the order to the State Department of Education. Modification by the Tax Commissioner shall be based upon the evidence introduced at hearing and shall not be limited to the modification requested in the written objections or at hearing. The final determination of the Tax Commissioner may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(5) The Tax Commissioner Property Tax Administrator shall, on the date the adjusted valuations are certified to the State Department of Education under subsection (1) of this section, cause to be published notice of such adjusted valuations in a newspaper published or of general circulation

in each county in Nebraska.

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

Sec. 186. Section 79-3819, Reissue Revised Statutes of Nebraska, is amended to read:

79-3819. (1) A district may exceed its applicable allowable growth rate by a specific dollar amount in the situations described in this section.

(2) A district demonstrates to the satisfaction of the state board that a new program is required by state or federal law or an existing program mandated by state or federal law has been expanded as a result of changes in state or federal law. For purposes of this subsection, a final order of a court, the State Board of Equalization and Assessment, or the Tax Commissioner, the Tax Equalization and Review Commission, or the Property Tax Administrator from which no appeal is taken which requires reimbursement by a district of property taxes to a taxpayer shall be considered a new program required by state or federal law but shall not be included as part of the general fund budget of expenditures for purposes of section 79-3814.

(3) The district projects an increase in formula students in the district over the current school year greater than twenty-five students or greater than those listed in the schedule provided in this subsection, whichever is less. Districts shall project increases in formula students on forms prescribed by the department. The state board shall approve, deny, or modify the projected increases.

| Average daily membership of district | Projected increase of formula student by percentage |
|--------------------------------------|---|
| 0 - 50 | 10 |
| 50.01 - 250 | 5 |
| 250.01 - 1,000 | 3 |
| 1,000.01 and over | 1 |

The department shall compute the district's estimated allowable budget per pupil using the budgeted general fund expenditures found on the budget statement for the current school year divided by the number of formula students in the current school year and multiplied by the district's applicable allowable growth rate. The resulting allowable budget per pupil shall be multiplied by the projected formula students to arrive at the estimated budget needs for the ensuing year. The department shall allow the district to increase its general fund budget of expenditures for the ensuing school year by the amount necessary to fund the estimated budget needs of the district as computed pursuant to this subsection. On or before July 1 of each year, the department shall make needed revisions in the applicable allowable growth rate of districts which have been allowed additional growth pursuant to this subsection to reflect the actual formula students of such district and shall certify such revisions to each district.

(4) Construction, expansion, or alteration of district buildings will cause an increase in building operation and maintenance costs of at least five percent. The department shall document the projected increase in building operation and maintenance costs and may allow a district to exceed its applicable allowable growth percentage by the amount necessary to fund such increased costs. The department shall compute the actual increased costs for the school year and shall, if needed, modify the district's applicable allowable growth rate for the ensuing school year.

(5) A district demonstrates to the satisfaction of the state board that as a result of an order entered into by the Commission of Industrial Relations pursuant to section 48-818 establishing rates of pay, benefits, and other terms and conditions of employment, the district will exceed its applicable allowable growth rate. The department shall compute the amount by which the increase in employee costs exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

(6) A district demonstrates to the satisfaction of the state board that it will exceed its applicable allowable growth rate as a result of a contested, but settled, contract dispute, claim, or breach or uninsured risk or as a result of any final judgment of any court of competent jurisdiction, requiring or obligating the district to pay such judgment. The department shall compute the amount by which the increased cost of the settlement or judgment exceeds the district's applicable allowable growth rate and shall allow the district to increase its general fund budget of expenditures by such amount.

Sec. 187. Section 79-3823, Reissue Revised Statutes of Nebraska, is amended to read:

79-3823. There is hereby created the School Finance Review

Committee, which committee shall be composed of representatives of the State Department of Education, the Department of Revenue Property Tax Administrator, the Legislative Council, and each class of district, an expert in school finance, and a member of the general public. Except for the representative of the Legislative Council, who shall be selected by the Executive Board of the Legislative Council, and the representative of the State Department of Education, who shall be appointed by the State Board of Education, the committee members shall be appointed by the Governor. Committee members shall serve staggered three-year terms as the Governor shall designate, and committee members may be reappointed for one additional term. The committee shall monitor the operation of the school finance provisions of the Tax Equity and Educational Opportunities Support Act and suggest needed revisions in the act. In particular, the committee shall review the implementation and operation of the average daily membership tiers, budget growth limitations, the need for a continuing hold-harmless provision for state aid, and expenditures of districts pursuant to the act. The committee shall study and make specific recommendations for harmonizing the provisions of the act with the provisions of Laws 1990, LB 259, and the provisions of Chapter 79, article 34.

The committee shall annually, on or before March 1, make a report to the Governor, Legislature, and State Board of Education on the progress of the act in effectuating property tax relief, broadening the tax base for the support of the public school system, equalization of the tax burden for the support of the public school system, equalization of educational opportunities for students, and the effects of budget limitations on district spending patterns.

Sec. 188. Section 81-15,102.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,102.01. (1) Any owner of real property that is within a three-mile radius of the facility on the date a license for such facility is granted who believes that his or her property has declined in value as a result of construction of the facility or his or her heirs or assigns may apply for compensation as provided in this section. Any application for compensation shall be filed within five years of the date the facility first begins accepting low-level radioactive waste. Upon application by a real property owner, the county board of the county in which the facility is located shall hold a hearing to determine whether a loss of real property value has occurred. In reaching a decision, the county board shall consider the value of such property on the date a license is granted to the developer, using appraisals, valuations made by the county assessor of the county, data developed by the Department of Revenue Property Tax Administrator, and any other relevant data, including appraisals which the county board may order. If the real property owner establishes by a preponderance of the evidence that his or her property has suffered loss which has not previously been compensated due to the construction of the facility, the developer shall provide compensation to the real property owner for the amount of the loss. Compensation shall be provided by the developer from fees assessed upon generators of low-level radioactive waste at the time such waste is delivered to the facility. Any real property owner aggrieved by a final decision of the county board shall be entitled to an appeal in the same manner as appeals are taken pursuant to section 23-135.

(2) As used in this section, real property owner shall mean the owner of record in the office of the county register of deeds on the date a license is granted to the developer as provided in section 81-15,101 or his or her heirs or assigns.

Sec. 189. Section 81-15,113.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,113.01. (1) There is hereby created the Community Improvements Cash Fund which shall be under the direction of the department. The Central Interstate Low-Level Radioactive Waste Compact Commission shall annually through 1994 remit to the department the funds received from the states belonging to the Central Interstate Low-Level Radioactive Waste Compact as compensation paid to the host state. When the facility begins operation, the developer shall levy, collect, and remit to the department a surcharge on the rates charged to the users of the facility which is sufficient to raise two million dollars per year together with any adjustments made by the department pursuant to this section. The department shall remit such surcharge to the State Treasurer who shall credit it to the Community Improvements Cash Fund. On October 1, 1990, and each October 1 thereafter, the department shall adjust the amount to be remitted by the developer by an amount equal to the percentage increase in the Consumer Price Index or, if publication of the Consumer Price Index is discontinued, a comparable index

selected by the director. There is hereby appropriated three hundred thousand dollars from the Community Improvements Cash Fund for the period July 1, 1988, to June 30, 1989, to carry out the purposes of this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) The department shall distribute money from the fund as follows:

(a) Prior to final site selection, three hundred thousand dollars per year shall be allocated for public purposes to be divided among the communities that are under active consideration to host the facility as provided in subsection (3) of this section;

(b) After the final site has been selected and until the facility is operational, three hundred thousand dollars per year shall be allocated for public purposes as provided in subsection (3) of this section. Acceptance of the funds distributed pursuant to this subdivision or subdivision (a) of this subsection shall in no way affect the siting process; and

(c) Once the facility is operational and during the operational life of the facility, the total amount in the fund shall be allocated each year for public purposes as provided in subsection (3) of this section.

(3) Money distributed pursuant to subdivisions (2)(a), (b), and (c) of this section shall be allocated as follows:

(a) Fifty percent of such money shall be distributed to incorporated municipalities which lie totally or partially within ten kilometers of the facility or the proposed facility based on the ratio of the population of the particular incorporated municipality to the total population of all such incorporated municipalities as determined by the latest federal census; and

(b) Fifty percent of such money shall be distributed to the county treasurer of the county where the facility is located or proposed to be located to be distributed to each political subdivision which levied property taxes on the property where the facility is located or proposed to be located. The money shall be distributed on the basis of the ratio of the total amount of taxes levied by each political subdivision to the total amount of property taxes levied by all such political subdivisions on such property based on the amounts stated in the most recent certificate of taxes levied submitted by each county to the Tax Commissioner Property Tax Administrator pursuant to section 77-1613.01.

(4) The Natural Resources Committee of the Legislature shall conduct a study to establish a formula for the equitable distribution of the funds specified in subdivision (2)(c) of this section. The committee shall hold public hearings necessary to carry out the purposes of the study.

Sec. 190. Sections 84-913 to 84-919 do not apply to the Tax Equalization and Review Commission.

Sec. 191. Section 84-920, Reissue Revised Statutes of Nebraska, is amended to read:

84-920. Sections 84-901 to 84-920 and section 190 of this act shall be known and may be cited as the Administrative Procedure Act.

Sec. 192. This act becomes operative on January 1, 1996.

Sec. 193. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 194. Original sections 23-1611, 46-133, 77-202.02, 77-202.04, 77-202.05, 77-202.06, 77-202.07, 77-202.08, 77-202.25, 77-367, 77-369, 77-371, 77-376, 77-415, 77-416, 77-418, 77-419, 77-420, 77-421, 77-425, 77-428, 77-508.01, 77-601, 77-602, 77-602, 77-605, 77-606, 77-607, 77-608, 77-609, 77-611, 77-612, 77-616, 77-621, 77-623, 77-801, 77-802, 77-803, 77-804, 77-1216, 77-1245, 77-1247, 77-1249.01, 77-1250, 77-1250.02, 77-1250.03, 77-1250.04, 77-1250.05, 77-1301.02, 77-1301.03, 77-1301.04, 77-1301.06, 77-1301.08, 77-1301.14, 77-1301.15, 77-1306.01, 77-1314, 77-1325, 77-1329, 77-1330, 77-1331, 77-1332, 77-1334, 77-1336, 77-1339, 77-1340, 77-1346, 77-1371, 77-1507, 77-1510.01, 77-1511, 77-1513, 77-1515, 77-1606, 77-1613.02, 77-1615.01, 77-1623, 77-1704.01, 77-1705, 77-1738, 77-1749, 77-1750, 77-1760, 77-1763, 77-1766, 77-3519, 77-3902, 77-3903, 77-3907, 77-3908, 79-3809, 79-3819, 79-3823, 81-15,102.01, 81-15,113.01, and 84-920, Reissue Revised Statutes of Nebraska, sections 13-504, 18-2713, 76-214, 77-120, 77-202.01, 77-202.03, 77-366, 77-375, 77-399, 77-3.113, 77-3.114, 77-507.01, 77-508, 77-509, 77-603, 77-604, 77-615, 77-680, 77-681, 77-682, 77-683, 77-684, 77-685, 77-686, 77-687, 77-689, 77-690, 77-691, 77-693, 77-1229, 77-1233.04, 77-1239, 77-1239.01, 77-1239.02, 77-1240.01, 77-1240.04, 77-1248, 77-1249, 77-1301.01, 77-1301.07, 77-1301.12, 77-1301.13, 77-1311, 77-1327, 77-1333, 77-1342, 77-1360.01, 77-1361, 77-1362, 77-1363, 77-1364, 77-1367, 77-1376, 77-1377, 77-1381, 77-1384, 77-1502, 77-1503.01, 77-1504, 77-1510, 77-1514, 77-1613.01, 77-1735, 77-1736.06, 77-1775, 77-1775.01, 77-3438, 77-3904,

77-3905, and 77-3906, Revised Statutes Supplement, 1994, section 77-1716, Reissue Revised Statutes of Nebraska, as amended by section 31, Legislative Bill 452, Ninety-fourth Legislature, First Session, 1995, section 77-1601, Revised Statutes Supplement, 1994, as amended by section 1, Legislative Bill 167, Ninety-fourth Legislature, First Session, 1995, and section 16, Legislative Bill 452, Ninety-fourth Legislature, First Session, 1995, are repealed.

Sec. 195. The following sections are outright repealed: Sections 77-1373, 77-1747, 77-1751, 77-1752, 77-1753, 77-1754, 77-1755, 77-1755.01, 77-1756, 77-1757, 77-1758, 77-1768, 77-1769, and 77-1770, Reissue Revised Statutes of Nebraska, and sections 77-1372 and 77-1506.02, Revised Statutes Supplement, 1994.