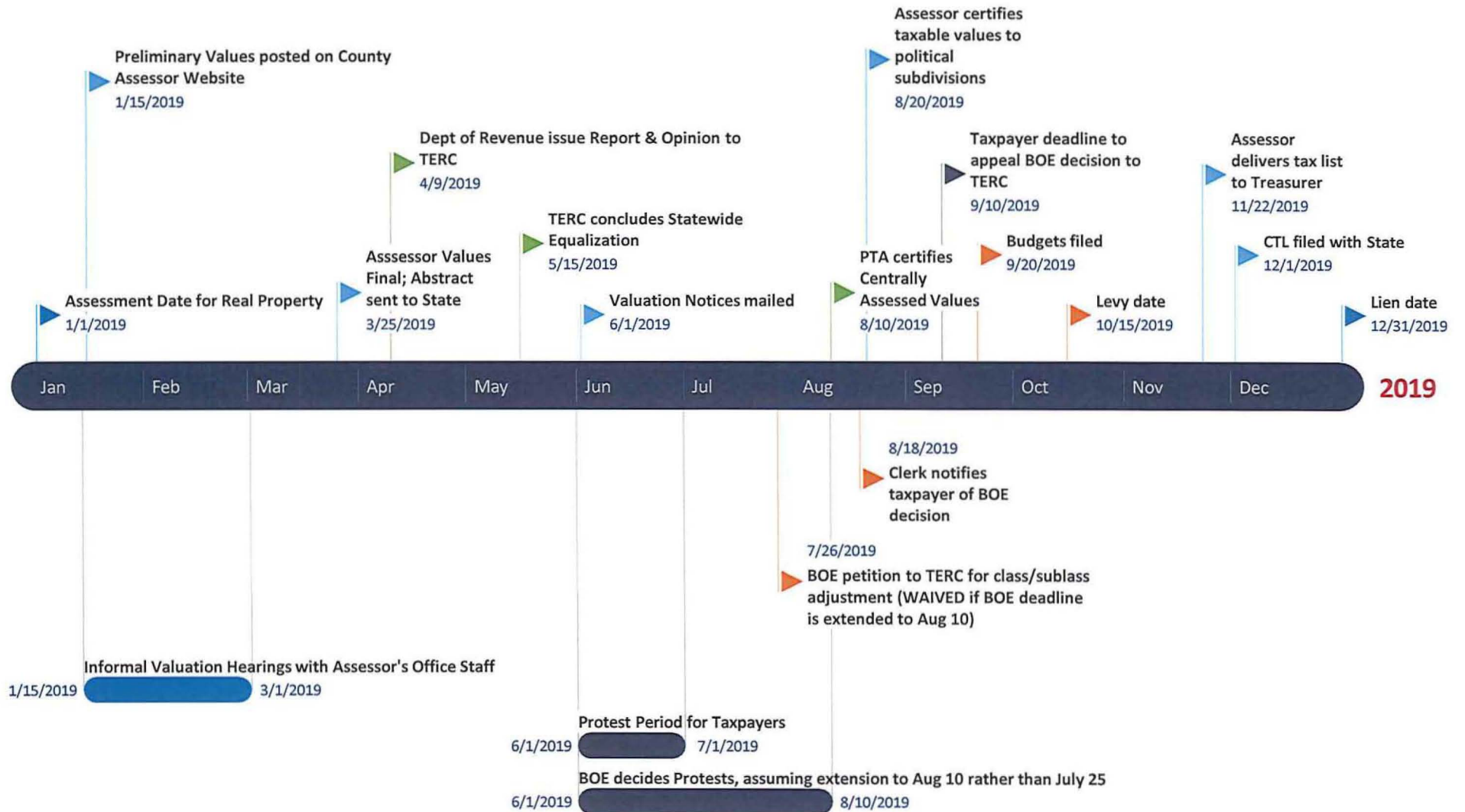


Assessment/Equalization Calendar

DUE DATE	DUTY	STATUTE	RESPONSIBILITY:
January 1	Assessment Date	77-1301	Assessor
January 15	Preliminary Values posted on Assessor website	77-1301	Assessor
Jan 15 – Mar 1	Informal Hearings with Assessor Staff. Taxpayer must request hearing by Febr 1 to be assured a hearing spot.	77-1311	Assessor
March 25	Assessor Values are FINAL and Abstract is submitted to State---after this date, only TERC and BOE may modify values.	77-1301 77-1514	Assessor
April 9	PTA provides Report & Opinion to TERC and Assessor	77-1514 77-5027	Property Assessment Division
May 15	TERC concludes Statewide Equalization	77-5028	TERC
June 1	Valuation notices mailed to all owners whose value has changed from the prior year.	77-1315	Assessor
June 1-30	Taxpayers may file valuation protests with Clerk.	77-1502	Taxpayer
June 1-July 25 (Aug 10 w/ext)	BOE holds protest hearings and issues decisions	77-1502	BOE
June 1-July 25 (Aug 10 w/ext)	BOE may take action to correct assessment of any undervalued/overvalued property reported by assessor. After this time period, only the values of property which was not properly reported to the assessor or clerical errors resulting in value errors may be adjusted by the BOE.	77-1504 77-1507	BOE
July 26	BOE may petition TERC for class/subclass adjustments (this option is forfeited if BOE extends to Aug 10)	77-1504.01 77-1502	BOE
August 2 (Aug 18 w/ext)	Clerk notifies taxpayer of BOE protest decision	77-1502(4)	Clerk
August 10	PTA certifies Centrally Assessed Values	77-5030	PAD
August 20	Assessor certifies taxable values to political subdivisions and TIF project values to city.	13-509 13-518 18-2148	Assessor
August 24 (Sept 10 w/ext)	Taxpayer deadline to appeal BOE decision to TERC	77-1510	Taxpayer
September 20	Budgets filed	13-508	Political Subdivisions
October 15	Levy Date	77-1601	BOE
November 22	Assessor delivers Tax List to Treasurer	77-1616	Assessor
December 1	Certificate of Taxes Levied (CTL) filed with PTA	77-1613.01	Assessor
December TBA	Tax Statements mailed by Treasurer	77-1701	Treasurer
December 31	Property Taxes "Due" and Lien Date	77-203	Taxpayer
Next April 1	1 st half taxes delinquent	77-204	Taxpayer
Next August 1	2 nd half taxes delinquent	77-204	Taxpayer



I. INTRODUCTION

A. **Composition of Board of Equalization.** The County Board of County Commissioners constitutes the County Board of Equalization (“BOE”). Neb. Rev. Stat. § 77-1501 (Reissue 2018).

B. **Required Attendance.**

1. The **County Assessor** (or designee) is required to attend all BOE meetings regarding the assessment or exemption of real and personal property. The County Assessor’s records are available for the inspection and consideration of the BOE. *Id.*
2. The **County Treasurer** is required to attend all BOE meetings involving the exemption of motor vehicles from the motor vehicle tax. *Id.*
3. The **County Clerk** (or deputy/designee) is required to attend and make a record of all BOE proceedings. *Id.*

II. CREATURE OF STATUTE

A. **Non-corporate existence.** “[T]he county board of equalization is an administrative agency of the county. . . .” *Wolf v. Grubbs*, 17 Neb. App. 292, 302, 759 N.W.2d 499, 513 (2009) citing *Speer v. Kratzenstein*, 143 Neb. 310, 12 N.W.2d 360 (1943).

B. **Limited Powers.**

1. “The board of equalization is simply what its name imports, a board for the equalization of values in certain cases. It possesses no powers save those conferred by statute, and its jurisdiction must appear on the face of the record of its proceedings.” *State ex rel. Goff v. Cty. Bd. of Dodge Co.*, 20 Neb. 595, 603, 31 N.W. 117, 121 (1886).
2. “County boards of equalization can exercise only such powers as are expressly granted to them by statute, and statutes conferring power and authority upon a county board of equalization are strictly construed.” *John Day Co. v. Douglas Cty. Bd. of Equalization*, 243 Neb. 24, 30, 497 N.W.2d 65, 69-70 (1993).
3. “The county board of equalization is given statutory powers, all of which relate to the assessment of value and taxation of property within the county.” *Wolf v. Grubbs*, 17 Neb. App. 292, 301, 759 N.W.2d 499, 512 (2009).

- C. **Exemption from BOE's Jurisdiction.** Any property valued by the state (i.e., railroads, public service entities, and specific personal property of air carrier and rail car line companies that are taxed by the State Property Tax Administrator) shall not be subject to the jurisdiction of the BOE. Neb. Rev. Stat. § 77-1503.01 (Reissue 2018).
- D. **Commutation of Taxes Prohibited.** "No county . . . board . . . shall have the power to release, discharge, remit, or commute any portion of the taxes assessed or levied against any person or property within their respective jurisdictions for any reason whatever. Any taxes, so discharged, released, remitted, or commuted, may be recovered by civil action from the members of any such board. . . and the sureties on their official bonds at the suit of any citizen of the county. . . and when collected shall be paid into the proper treasury. The provisions of this section shall not be construed to prevent the proper authority from refunding taxes paid, as provided in section 77-1735, nor to interfere with the powers of any officers or board sitting as a board for the equalization of taxes." Neb. Rev. Stat. § 77-1737 (Reissue 2018).

III. SESSIONS AND POWERS

- A. **Correcting Current Year's Assessment (Under-/Overvalued).** BOE may meet on or after June 1 and on or before July 25 (or August 10 by resolution adopted before July 25), to consider and correct the current year's assessment of any real property which has been undervalued or overvalued. The BOE shall hear and decide protests, if any, on the BOE's action. Neb. Rev. Stat. § 77-1504, on or before September 15 (or September 30 if the hearings have been extended by resolution to August 10). Neb. Rev. Stat. § 77-1504 (Reissue 2018).
- B. **Protests of Current Year's Assessment.** BOE shall meet for the purposes of reviewing and deciding written protests regarding the assessment of real and tangible personal property beginning on or after June 1 and ending or before July 25 (or August 10 by resolution adopted before July 25) each year. Neb. Rev. Stat. § 77-1502 (Reissue 2018).
1. **Purpose.** The purpose of the BOE with respect to these powers is to fairly and impartially equalize the value of all items of real property in the county so that all real property is assessed uniformly and proportionally. Neb. Rev. Stat. § 77-1501 (Reissue 2018).

2. **Referee System.** In order to review and decide written protests pursuant to Section 77-1502, the BOE may appoint one or more suitable persons to act as referees. Neb. Rev. Stat. § 77-1502.01 (Reissue 2018).
 - a. **Referee Recommendation.** Upon conclusion of the referee's hearings, the referee shall transmit all papers on each protest and together with the referee's findings and recommendations. *Id.*
 - b. **BOE Order.** The BOE, after considering all the papers and findings and recommendations, may make the order recommended by the referee, or any other order that in the judgment of the BOE is required by the findings of the referee; or may hear additional testimony or hear the protest anew. *Id.*
- C. **Adjustment to Class or Subclass of Property.** After completion of the BOE's actions pursuant to Sections 77-1502 and 77-1504, the BOE may petition TERC to consider an adjustment to a class or subclass of real property on or before July 26. This petition is not available to counties who extend the hearing deadline to August 10. Neb. Rev. Stat. § 77-1504.01 (Reissue 2018).
- D. **Protests of Increase/Decrease of Personal Property.** If County Assessor lists, increases, or decreases value of tangible personal property on a personal property return, BOE may hear appeals regarding the action taken, penalty, and rate of interest. Neb. Rev. Stat. § 77-1233.04 (Reissue 2018) and 77-1233.06 (Reissue 2018).
- E. **Permissive Tax Exemptions.** County Assessor shall present to the BOE the County Assessor's real or tangible personal property tax exemption recommendations for permissive exemptions on or before February 1 of each year (except that late filing is allowed on or before June 30 upon written request for waiver to BOE), and BOE shall conduct hearings on such recommendation between February 1 and June 1 of each year (except that late filings shall be heard on or before August 15). Neb. Rev. Stat. §§ 77-202.01 and 77-202.02 (Reissue 2018). Permissive exemptions generally are agricultural and horticultural societies; educational; religious; charitable; or cemetery. Neb. Rev. Stat. § 77-202(1)(c) and (d) (Reissue 2018).
- F. **Protests of Governmental Tax Exemptions.** County Assessor shall notify the state or governmental subdivisions of taxable status of property not being used for a public purpose on or before March 1 of each year. On or

- before April 1 of each year, the state or governmental subdivision may protest the County Assessor's determination to the BOE. The BOE shall decide such protests on or before May 1 of each year. Neb. Rev. Stat. § 77-202.12(1) and (2) (Reissue 2018).
- G. Omitted Real Property.** BOE may meet at any time for purposes of assessing any omitted real property not reported to the County Assessor and for correction of clerical errors that result in a change of assessed value. Neb. Rev. Stat. § 77-1507(1) (Reissue 2018). For real property omitted for the current year, the BOE shall not send notice on or before June 1. *Id.* BOE may hear protests on the same, and shall issue its decision on the protest within thirty days after the filing of the protest. *Id.*
- H. Addition to Assessment Roll of Properly Reported Real Property.** BOE may meet only from June 1 through July 25 (or August 10 if the BOE has extended hearings to August 10 by resolution) to add to the assessment roll improvements to real property that were properly reported to the County Assessor for the current year and were not added to the assessment roll by the County Assessor on or before March 25. Neb. Rev. Stat. § 77-1507(4) (Reissue 2018).
- I. Motor Vehicle Tax Exemptions.** BOE may meet at any time for purposes of hearings on motor vehicle tax exemptions. Neb. Rev. Stat. § 60-3,189(2) (2018 Cum. Supp.).
- J. Complaint on Rejection of Homestead Exemption.** 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. Neb. Rev. Stat. § 77-3519 (Reissue 2018).
- 1. General Time Frame for Homestead Applications.** Special Homestead applications shall be filed after February 1 and on or before June 30 of each year, except that the County Board may extend the deadline for an applicant to on or before July 20 unless the applicant received such an extension in the immediately preceding year. *Id.*
 - 2. Special Time Frame for Homestead Application.** Applicant also may file a late application based on a documented medical condition pursuant to Section 77-3514.01. *Id.*

3. **Timing of BOE Decision.** The BOE shall issue its decision within 30 days of the filing of the complaint. Id.

K. Greenbelt protests.

1. **General Time Frame.**

- a. **Filing of application.** On or before July 15 in year of greenbelt application, the County Assessor shall approve or deny the application.
- b. **Protest of denial.** A written protest of a denial may be filed within thirty days after the mailing of the denial.
- c. **BOE decision.** The BOE shall decide any protest within thirty days after the filing of the protest. Neb. Rev. Stat. 77-1345.01 (Reissue 2018).

2. **Special Timeframe for Corrected Values and Omitted Property.**

- a. **Filing of application.** If the BOE takes action pursuant to Sections 77-1504 (correct undervalued or overvalued property) or 77-1507 (omitted property), an applicant may apply for greenbelt within 30 days of the BOE's notice pursuant to Sections 77-1504 or 77-1507. Neb. Rev. Stat. § 77-1345 (Reissue 2018).
- b. **Protest of denial.** The County Assessor shall approve or deny the application with 15 days, and the applicant may appeal to the BOE within 30 days of the mailing of the denial.
- c. **BOE decision.** The BOE shall decide any protest within thirty days after the filing of the protest. Neb. Rev. Stat. 77-1345.01 (Reissue 2018).

L. Personal Property Tax Penalties.

1. **County Assessor's Required Penalties and Interest.** County Assessor is required to impose certain penalties and interest pursuant Section 77-1233.04(3), (4), and (5), respectively:

- a. **After May 1 and on or before June 30 of the Year the Property is Required to be Reported:** Any valuation added to a personal property return or added through the filing of a personal property return is subject to a 10% penalty of the tax due on the value added.
 - b. **On or after July 1 of the Year the Property is Required to be Reported:** Any valuation added to a personal property return or added through the filing of a personal property return, is subject to a penalty of 25% of the tax due on the value added.
 - c. **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.
2. **Appeals to the BOE.** The BOE shall hear appeals on the valuation or the penalties and shall make its determination on the appeal within 30 days after the date of the hearing.
 3. **Limited Power on Appeal.** The BOE's power in hearing protests of the imposition of such penalties and interest is strictly limited by statute: The action of the county board of equalization, in an appeal of the penalties imposed, shall be limited to correcting penalties which were wrongly imposed or incorrectly calculated. The county board of equalization shall have no authority to waive or reduce any penalty which was correctly imposed and calculated. The entire penalty and interest on the penalty shall be waived if the omission or failure to report any item of taxable tangible personal property was for the reason that the property was timely reported in the wrong tax district. . . ." Neb. Rev. Stat. § 77-1233.06(3) (Reissue 2018).

M. Tax Levy.

1. **Levying.** The BOE each year shall, on or before October 15, levy the necessary taxes for the current year if within the limit of the law. The levy shall include an amount for operation of all functions of county government and shall also include all levies necessary to fund tax requests certified under section 77-1601.02 that are authorized as provided in sections 77-3442 to 77-3444 for other political subdivisions. Neb. Rev. Stat. § 77-1601(1) (Reissue 2018).

2. **Correcting Clerical Errors.** On or before November 5, the BOE upon its own motion may act to correct a clerical error which has resulted in the calculation of an incorrect levy by any entity otherwise authorized to certify a tax request under section 77-1601.02. Neb. Rev. Stat. § 77-1601(2) (Reissue 2018).

IV. APPEALS FROM ACTIONS OF BOE

A. Type of Appeals.

1. **Protest of Property Assessment.** Any action of the BOE taken pursuant to Section 77-1502 may be appealed to the Tax Equalization and Review Commission (“TERC”) on or before August 24 (or on or before September 10 if the hearings have been extended by resolution to August 10). Neb. Rev. Stat. 77-1510 (Reissue 2018).
2. **Correction of Property Assessment.** Any action of the BOE taken pursuant to Section 77-1504 may be appealed to the Tax Equalization and Review Commission (“TERC”) on or before October 15 (or on or before October 30 if the hearings have been extended by resolution to August 10). Neb. Rev. Stat. 77-1504 (Reissue 2018).
3. **Omitted Property.** Action of BOE taken pursuant to Section 77-1507 may be appealed to TERC within 30 days. Neb. Rev. Stat. § 77-1507(3) (Reissue 2018).
4. **Motor Vehicle Exemption.** Action of BOE taken pursuant to Section 60-3,189 may be appealed to TERC within 30 days. Neb. Rev. Stat. § 60-3,189(2) (2018 Cum. Supp.).
5. **Non-Motor-Vehicle Permissive Tax Exemptions.** Action of BOE taken pursuant to Sections 77-202.01 and 77-202.02 may be appealed by the owner, the Tax Commissioner, and/or the Property Tax Administrator within 30 days of the BOE’s action. Neb. Rev. Stat. § 77-202.04(1) and (2) (Reissue 2018).
6. **Governmental Tax Exemptions.** Action of BOE taken pursuant to Section 77-202.12 may be appealed to the Tax Equalization and Review Commission on or before June 1. Neb. Rev. Stat. § 77-202.12(3) (Reissue 2018).

7. **Personal Property Penalty and Interest.** Action of BOE taken pursuant to Section 77-133.06 (personal property penalty and interest) may be appealed to TERC within 30 days of BOE's action. Neb. Rev. Stat. § 77-1233.06(4) (Reissue 2018).
 8. **Homestead Exemption.** The taxpayer shall have the right to appeal from the BOE's decision with reference to the application for homestead exemption to TERC in accordance with section 77-5013 within 30 days after the decision. Neb. Rev. Stat. § 77-3519 (Reissue 2018).
 9. **Greenbelt.** Any decision of the BOE pursuant to Section 77-1345.01 may be appealed to TERC, in accordance with Section 77-5013, within thirty days after the date of the BOE's decision. Neb. Rev. Stat. § 77-1345.01(9) (Reissue 2018).
 10. **Tax Levy.** Any taxpayer may appeal from the action of the BOE 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 political subdivision, to TERC in accordance with section 77-5013 within 30 days after the BOE's action. Neb. Rev. Stat. § 77-1606 (Reissue 2018). "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. . . ." *Id.*
- B. **Standard of Review on Appeal.** TERC hears appeals de novo. *See* Neb. Rev. Stat. § 77-5016(8); *Brenner v. Banner Cty. Bd. of Equalization*, 276 Neb. 275, 286, 753 N.W.2d 802, 813 (2008) (Amended Section 77-5016(8) "simply restates the concept of de novo review in a manner more appropriate for a nonjudicial tribunal. . .").
- C. **Burden on Appeal.**
1. **Burden of Proof.** "In all appeals, excepting those arising under section 77-1606 [taxpayer-initiated appeal of a county tax levy], if the appellant presents no evidence to show that the order, decision, determination, or action appealed from is incorrect, the commission shall deny the appeal. If the appellant presents any evidence to show that the order, decision, determination, or action appealed from is incorrect, such order, decision, determination, or action shall be affirmed unless evidence is adduced establishing that the order, decision, determination, or action was unreasonable or arbitrary." Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).

2. **Presumption.** “[T]here is a presumption that a board of equalization has faithfully performed its official duties in making an assessment and has acted upon sufficient competent evidence to justify its action. That presumption remains until there is competent evidence to the contrary presented, and the presumption disappears when there is competent evidence adduced on appeal to the contrary. From that point forward, the reasonableness of the valuation fixed by the board of equalization becomes one of fact based upon all the evidence presented. The burden of showing such valuation to be unreasonable rests upon the taxpayer on appeal from the action of the board.” *Brenner*, 276 Neb. at 283-84, 753 N.W.2d at 811.

3. **Burden of Persuasion.** “The taxpayer's burden of persuasion by ‘clear and convincing evidence’ results from long-established judicial construction of this statutory language.” *Brenner*, 276 Neb. at 286, 753 N.W.2d at 813. *See also* Neb. Rev. Stat. § 77-5016(8) (Reissue 2018).