

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 43

Introduced by Cook, 13.

Read first time January 10, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section 77-202,
2 Revised Statutes Cumulative Supplement, 2012; to change
3 provisions relating to a property tax exemption; and to
4 repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-202, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 77-202 (1) The following property shall be exempt from
4 property taxes:

5 (a) Property of the state and its governmental
6 subdivisions to the extent used or being developed for use by the
7 state or governmental subdivision for a public purpose. For purposes
8 of this subdivision:

9 (i) Property of the state and its governmental
10 subdivisions means (A) property held in fee title by the state or a
11 governmental subdivision or (B) property beneficially owned by the
12 state or a governmental subdivision in that it is used for a public
13 purpose and is being acquired under a lease-purchase agreement,
14 financing lease, or other instrument which provides for transfer of
15 legal title to the property to the state or a governmental
16 subdivision upon payment of all amounts due thereunder. If the
17 property to be beneficially owned by a governmental subdivision has a
18 total acquisition cost that exceeds the threshold amount or will be
19 used as the site of a public building with a total estimated
20 construction cost that exceeds the threshold amount, then such
21 property shall qualify for an exemption under this section only if
22 the question of acquiring such property or constructing such public
23 building has been submitted at a primary, general, or special
24 election held within the governmental subdivision and has been
25 approved by the voters of the governmental subdivision. For purposes

1 of this subdivision, threshold amount means the greater of fifty
2 thousand dollars or six-tenths of one percent of the total actual
3 value of real and personal property of the governmental subdivision
4 that will beneficially own the property as of the end of the
5 governmental subdivision's prior fiscal year; and

6 (ii) Public purpose means use of the property (A) to
7 provide public services with or without cost to the recipient,
8 including the general operation of government, public education,
9 public safety, transportation, public works, civil and criminal
10 justice, public health and welfare, developments by a public housing
11 authority, parks, culture, recreation, community development, and
12 cemetery purposes, or (B) to carry out the duties and
13 responsibilities conferred by law with or without consideration.
14 Public purpose does not include leasing of property to a private
15 party unless the lease of the property is at fair market value for a
16 public purpose. Leases of property by a public housing authority to
17 low-income individuals as a place of residence are for the
18 authority's public purpose;

19 (b) Unleased property of the state or its governmental
20 subdivisions which is not being used or developed for use for a
21 public purpose but upon which a payment in lieu of taxes is paid for
22 public safety, rescue, and emergency services and road or street
23 construction or maintenance services to all governmental units
24 providing such services to the property. Except as provided in
25 Article VIII, section 11, of the Constitution of Nebraska, the

1 payment in lieu of taxes shall be based on the proportionate share of
2 the cost of providing public safety, rescue, or emergency services
3 and road or street construction or maintenance services unless a
4 general policy is adopted by the governing body of the governmental
5 subdivision providing such services which provides for a different
6 method of determining the amount of the payment in lieu of taxes. The
7 governing body may adopt a general policy by ordinance or resolution
8 for determining the amount of payment in lieu of taxes by majority
9 vote after a hearing on the ordinance or resolution. Such ordinance
10 or resolution shall nevertheless result in an equitable contribution
11 for the cost of providing such services to the exempt property;

12 (c) Property owned by and used exclusively for
13 agricultural and horticultural societies;

14 (d)(i) Property owned by educational, religious,
15 charitable, or cemetery organizations, or any organization for the
16 exclusive benefit of any such educational, religious, charitable, or
17 cemetery organization, and used exclusively for educational,
18 religious, charitable, or cemetery purposes, when such property is
19 not ~~(i)-(A)~~ owned or used for financial gain or profit to either the
20 owner or user, ~~(ii)-(B)~~ used for the sale of alcoholic liquors for
21 more than twenty hours per week, or ~~(iii)-(C)~~ owned or used by an
22 organization which discriminates in membership or employment based on
23 race, color, or national origin.

24 (ii) For purposes of ~~this~~ subdivision (1)(d) of this
25 section:

1 (A) Educational ,~~educational~~ organization means ~~(A)-(I)~~
2 an institution operated exclusively for the purpose of offering
3 regular courses with systematic instruction in academic, vocational,
4 or technical subjects or assisting students through services relating
5 to the origination, processing, or guarantying of federally reinsured
6 student loans for higher education or ~~(B)-(II)~~ a museum or historical
7 society operated exclusively for the benefit and education of the
8 public; and ~~. For purposes of this subdivision, charitable~~

9 (B) Charitable organization means an organization
10 operated exclusively for the purpose of the mental, social, or
11 physical benefit of the public or an indefinite number of persons and
12 includes an organization owning and operating a property such that at
13 least one-quarter of the property, calculated by dwelling units, is a
14 health care facility licensed under the Health Care Facility
15 Licensure Act and the remainder of the property is internally
16 connected to the licensed health care facility and is a facility
17 housing residents in which a portion of remuneration or rent is paid
18 to the licensed health care facility to provide or make available at
19 all times to all residents onsite care by licensed health care
20 professionals employed by the licensed health care facility; and

21 (e) Household goods and personal effects not owned or
22 used for financial gain or profit to either the owner or user.

23 (2) The increased value of land by reason of shade and
24 ornamental trees planted along the highway shall not be taken into
25 account in the valuation of land.

1 (3) Tangible personal property which is not depreciable
2 tangible personal property as defined in section 77-119 shall be
3 exempt from property tax.

4 (4) Motor vehicles required to be registered for
5 operation on the highways of this state shall be exempt from payment
6 of property taxes.

7 (5) Business and agricultural inventory shall be exempt
8 from the personal property tax. For purposes of this subsection,
9 business inventory includes personal property owned for purposes of
10 leasing or renting such property to others for financial gain only if
11 the personal property is of a type which in the ordinary course of
12 business is leased or rented thirty days or less and may be returned
13 at the option of the lessee or renter at any time and the personal
14 property is of a type which would be considered household goods or
15 personal effects if owned by an individual. All other personal
16 property owned for purposes of leasing or renting such property to
17 others for financial gain shall not be considered business inventory.

18 (6) Any personal property exempt pursuant to subsection
19 (2) of section 77-4105 or section 77-5209.02 shall be exempt from the
20 personal property tax.

21 (7) Livestock shall be exempt from the personal property
22 tax.

23 (8) Any personal property exempt pursuant to the Nebraska
24 Advantage Act shall be exempt from the personal property tax.

25 (9) Any depreciable tangible personal property used

1 directly in the generation of electricity using wind as the fuel
2 source shall be exempt from the property tax levied on depreciable
3 tangible personal property. Depreciable tangible personal property
4 used directly in the generation of electricity using wind as the fuel
5 source includes, but is not limited to, wind turbines, rotors and
6 blades, towers, trackers, generating equipment, transmission
7 components, substations, supporting structures or racks, inverters,
8 and other system components such as wiring, control systems,
9 switchgears, and generator step-up transformers.

10 (10) Any tangible personal property that is acquired by a
11 person operating a data center located in this state, that is
12 assembled, engineered, processed, fabricated, manufactured into,
13 attached to, or incorporated into other tangible personal property,
14 both in component form or that of an assembled product, for the
15 purpose of subsequent use at a physical location outside this state
16 by the person operating a data center shall be exempt from the
17 personal property tax. Such exemption extends to keeping, retaining,
18 or exercising any right or power over tangible personal property in
19 this state for the purpose of subsequently transporting it outside
20 this state for use thereafter outside this state. For purposes of
21 this subsection, data center means computers, supporting equipment,
22 and other organized assembly of hardware or software that are
23 designed to centralize the storage, management, or dissemination of
24 data and information, environmentally controlled structures or
25 facilities or interrelated structures or facilities that provide the

1 infrastructure for housing the equipment, such as raised flooring,
2 electricity supply, communication and data lines, Internet access,
3 cooling, security, and fire suppression, and any building housing the
4 foregoing.

5 Sec. 2. Original section 77-202, Revised Statutes
6 Cumulative Supplement, 2012, is repealed.