AM998
LB233
AJC - 04/12/2017

AMENDMENTS TO LB233

(Amendments to Standing Committee amendments, AM127)

Introduced by Stinner, 48.

1. Strike the original sections and all amendments thereto and insert the following new sections:

Section 1. Section 77-202, Revised Statutes Cumulative Supplement, 2016, is amended to read:

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

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

(i) Property of the state and its governmental subdivisions means (A) property held in fee title by the state or a governmental subdivision or (B) property beneficially owned by the state or a governmental subdivision in that it is used for a public purpose and is being acquired under a lease-purchase agreement, financing lease, or other instrument which provides for transfer of legal title to the property to the state or a governmental subdivision upon payment of all amounts due thereunder. If the property to be beneficially owned by a governmental subdivision has a total acquisition cost that exceeds the threshold amount or will be used as the site of a public building with a total estimated construction cost that exceeds the threshold amount, then such property shall qualify for an exemption under this section only if the question of acquiring such property or constructing such public building has been submitted at a primary, general, or special election held within the governmental subdivision and has been approved by the voters of the governmental subdivision. For purposes of this subdivision, threshold amount means the greater of fifty thousand dollars or six-tenths of one percent of the

AM998
LB233
AJC - 04/12/2017

total actual value of real and personal property of the governmental subdivision that will beneficially own the property as of the end of the governmental subdivision's prior fiscal year; and

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

(b) Unleased property of the state or its governmental subdivisions which is not being used or developed for use for a public purpose but upon which a payment in lieu of taxes is paid for public safety, rescue, and emergency services and road or street construction or maintenance services to all governmental units providing such services to the property. Except as provided in Article VIII, section 11, of the Constitution of Nebraska, the payment in lieu of taxes shall be based on the proportionate share of the cost of providing public safety, rescue, or emergency services and road or street construction or maintenance services unless a general policy is adopted by the governing body of the governmental subdivision providing such services which provides for a different method of determining the amount of the payment in lieu of taxes. The governing body may adopt a general policy by ordinance or resolution for determining the amount of payment in lieu of taxes by majority vote after a hearing on the ordinance or resolution. Such ordinance or resolution shall nevertheless result in an equitable

AM998
LB233
AJC - 04/12/2017

contribution for the cost of providing such services to the exempt property;

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

(d) Property owned by educational, religious, charitable, or cemetery organizations, or any organization for the exclusive benefit of any such educational, religious, charitable, or cemetery organization, and used exclusively for educational, religious, charitable, or cemetery purposes, when such property is not (i) owned or used for financial gain or profit to either the owner or user, (ii) used for the sale of alcoholic liquors for more than twenty hours per week, or (iii) owned or used by an organization which discriminates in membership or employment based on race, color, or national origin. For purposes of this subdivision, educational organization means (A) an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects or assisting students through services relating to the origination, processing, or guarantying of federally reinsured student loans for higher education or (B) a museum or historical society operated exclusively for the benefit and education of the public. For purposes of this subdivision, charitable organization includes an organization operated exclusively for the purpose of the mental, social, or physical benefit of the public or an indefinite number of persons and a fraternal benefit society organized and licensed under sections 44-1072 to 44-10,109; and

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

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

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

AM998
LB233
AJC - 04/12/2017

property tax.

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

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

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

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

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

(9) Any depreciable tangible personal property used directly in the generation of electricity using wind as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property. Any depreciable tangible personal property used directly in the generation of electricity using solar, biomass, or landfill gas as the fuel source shall be exempt from the property tax levied on depreciable tangible personal property if such depreciable tangible personal property was installed on or after January 1, 2016, and has a nameplate capacity of one hundred kilowatts or more. Depreciable tangible personal property used directly in the generation of electricity using wind, solar,

AM998
LB233
AJC - 04/12/2017

biomass, or landfill gas as the fuel source includes, but is not limited to, wind turbines, rotors and blades, towers, solar panels, trackers, generating equipment, transmission components, substations, supporting structures or racks, inverters, and other system components such as wiring, control systems, switchgears, and generator step-up transformers.

(10) Any tangible personal property that is acquired by a person operating a data center located in this state, that is assembled, engineered, processed, fabricated, manufactured into, attached to, or incorporated into other tangible personal property, both in component form or that of an assembled product, for the purpose of subsequent use at a physical location outside this state by the person operating a data center shall be exempt from the personal property tax. Such exemption extends to keeping, retaining, or exercising any right or power over tangible personal property in this state for the purpose of subsequently transporting it outside this state for use thereafter outside this state. For purposes of this subsection, data center means computers, supporting equipment, and other organized assembly of hardware or software that are designed to centralize the storage, management, or dissemination of data and information, environmentally controlled structures or facilities or interrelated structures or facilities that provide the infrastructure for housing the equipment, such as raised flooring, electricity supply, communication and data lines, Internet access, cooling, security, and fire suppression, and any building housing the foregoing.

(11) For each person who owns property required to be reported to the county assessor under section 77-1201, there shall be allowed, for each tax year excluding tax years 2017 and 2018, an exemption amount as provided in the Personal Property Tax Relief Act. For each person who owns property required to be valued by the state as provided in section 77-601, 77-682, 77-801, or 77-1248, there shall be allowed, for each tax year excluding tax years 2017 and 2018, a compensating exemption factor as provided in the Personal Property Tax Relief Act.

AM998
LB233
AJC - 04/12/2017

Sec. 2. Section 77-693, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-693 (1) The 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

AM998
LB233
AJC - 04/12/2017

personal or real property exceeds the ratio of the comparable taxable commercial and industrial property by more than five percent, the 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.

(4) <u>For each tax year excluding tax years 2017 and 2018, after</u> ~~After~~ the adjustment made pursuant to subsections (1) and (2) of this section, the Property Tax Administrator shall multiply the value of the tangible personal property of each railroad and car line by the compensating exemption factor calculated in section 77-1238.

Sec. 3. Section 77-801, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-801 (1) All public service entities shall, on or before April 15 of each year, furnish a statement specifying such information as may be required by the Property Tax Administrator on forms prescribed by the Tax Commissioner to determine and distribute the entity's total taxable value including the franchise value. All information reported by the public service entities, not available from any other public source, and any memorandum thereof shall be confidential and available to taxing officials only. For good cause shown, the Property Tax Administrator may allow an extension of time in which to file such statement. Such extension shall not exceed fifteen days after April 15.

(2) The returns of public service entities shall not be held to be conclusive as to the taxable value of the property, but the Property Tax Administrator shall, from all the information which he or she is able to obtain, find the taxable value of all such property, including tangible

AM998
LB233
AJC - 04/12/2017

property and franchises, and shall assess such property on the same basis as other property is required to be assessed.

(3) The county assessor shall assess all nonoperating property of any public service entity. A public service entity operating within the State of Nebraska shall, on or before January 1 of each year, report to the county assessor of each county in which it has situs all nonoperating property belonging to such entity which is not subject to assessment and assessed by the Property Tax Administrator under section 77-802.

(4) For each tax year excluding tax years 2017 and 2018, the ~~The~~ Property Tax Administrator shall multiply the value of the tangible personal property of each public service entity by the compensating exemption factor calculated in section 77-1238.

Sec. 4. Section 77-1238, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-1238 (1) Except as provided in subsection (3) of this section, every ~~Every~~ person who is required to list his or her taxable tangible personal property as defined in section 77-105, as required under section 77-1229, shall receive an exemption from taxation for the first ten thousand dollars of valuation of his or her tangible personal property in each tax district as defined in section 77-127 in which a personal property return is required to be filed. Failure to report tangible personal property on the personal property return required by section 77-1229 shall result in a forfeiture of the exemption for any tangible personal property not timely reported for that year.

(2) Except as provided in subsection (3) of this section, the ~~The~~ Property Tax Administrator shall reduce the value of the tangible personal property owned by each railroad, car line company, public service entity, and air carrier by a compensating exemption factor to reflect the exemption allowed in subsection (1) of this section for all other personal property taxpayers. The compensating exemption factor is calculated by multiplying the value of the tangible personal property of

AM998
LB233
AJC - 04/12/2017

the railroad, car line company, public service entity, or air carrier by a fraction, the numerator of which is the total amount of locally assessed tangible personal property that is actually subjected to property tax after the exemption allowed in subsection (1) of this section, and the denominator of which is the net book value of locally assessed tangible personal property prior to the exemptions allowed in subsection (1) of this section.

(3) No exemption shall be allowed under subsection (1) of this section and no reduction to property values shall be made under subsection (2) of this section for tax years 2017 and 2018.

Sec. 5. Section 77-1239, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-1239 (1) Except as provided in subsection (4) of this section, reimbursement ~~Reimbursement~~ to taxing subdivisions for tax revenue that will be lost because of the personal property tax exemptions allowed in subsection (1) of section 77-1238 shall be as provided in this subsection. The county assessor and county treasurer shall, on or before November 30 of each year, certify to the Tax Commissioner, on forms prescribed by the Tax Commissioner, the total tax revenue that will be lost to all taxing subdivisions within his or her county from taxes levied and assessed in that year because of the personal property tax exemptions allowed in subsection (1) of section 77-1238. The county assessor and county treasurer may amend the certification to show any change or correction in the total tax revenue that will be lost until May 30 of the next succeeding year. The Tax Commissioner shall, on or before January 1 next following the certification, notify the Director of Administrative Services of the amount so certified to be reimbursed by the state. Reimbursement of the tax revenue lost shall be made to each county according to the certification and shall be distributed in two approximately equal installments on the last business day of February and the last business day of June. The State Treasurer shall, on the business

AM998
LB233
AJC - 04/12/2017

day preceding the last business day of February and the last business day of June, notify the Director of Administrative Services of the amount of funds available in the General Fund to pay the reimbursement. The Director of Administrative Services shall, on the last business day of February and the last business day of June, draw warrants against funds appropriated. Out of the amount received, the county treasurer shall distribute to each of the taxing subdivisions within his or her county the full tax revenue lost by each subdivision, except that one percent of such amount shall be deposited in the county general fund.

(2) Except as provided in subsection (4) of this section, reimbursement ~~Reimbursement~~ to taxing subdivisions for tax revenue that will be lost because of the compensating exemption factor in subsection (2) of section 77-1238 shall be as provided in this subsection. The Property Tax Administrator shall establish the average tax rate that will be used for purposes of reimbursing taxing subdivisions pursuant to this subsection. The average tax rate 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 as certified pursuant to section 77-1613.01. The Tax Commissioner shall certify, on or before January 30 of each year, to the Director of Administrative Services the total valuation that will be lost to all taxing subdivisions within each county because of the compensating exemption factor in subsection (2) of section 77-1238. Such amount, multiplied by the average tax rate calculated pursuant to this subsection, shall be the tax revenue to be reimbursed to the taxing subdivisions by the state. Reimbursement of the tax revenue lost for public service entities shall be made to each county according to the certification and shall be distributed among the taxing subdivisions within each county in the same proportion as all public service entity taxes levied by the taxing subdivisions. Reimbursement of the tax revenue lost for railroads shall be made to each county according to the certification and shall be distributed among the taxing

AM998
LB233
AJC - 04/12/2017

subdivisions within each county in the same proportion as all railroad taxes levied by taxing subdivisions. Reimbursement of the tax revenue lost for car line companies shall be distributed in the same manner as the taxes collected pursuant to section 77-684. Reimbursement of the tax revenue lost for air carriers shall be distributed in the same manner as the taxes collected pursuant to section 77-1250.

(3) Each taxing subdivision shall, in preparing its annual or biennial budget, take into account the amounts to be received under this section.

(4) No reimbursements shall be made pursuant to this section for tax years 2017 and 2018.

Sec. 6. Section 77-1248, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-1248 (1) The 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.

(2)(a) In determining the taxable value of the flight equipment of air carriers pursuant to subsection (1) of this section, the Property Tax Administrator shall determine the following ratios:

(i) The ratio of the taxable value of all commercial and industrial depreciable tangible personal property in the state actually subjected to property tax to the market value of all commercial and industrial depreciable tangible personal property in the state; and

(ii) The ratio of the taxable value of flight equipment of air carriers to the market value of flight equipment of air carriers.

(b) If the ratio of the taxable value of flight equipment of air carriers exceeds the ratio of the taxable value of commercial and industrial depreciable tangible personal property by more than five percent, the Property Tax Administrator may adjust the value of such

AM998
LB233
AJC - 04/12/2017

flight equipment of air carriers to the percentage of the taxable commercial and industrial depreciable tangible personal property pursuant to federal law applicable to air carrier transportation property or Nebraska federal court decisions applicable thereto.

(c) For purposes of this subsection, commercial and industrial depreciable tangible personal property means all personal property which is devoted to commercial or industrial use other than flight equipment of air carriers.

(3) For each tax year excluding tax years 2017 and 2018, the ~~The~~ Property Tax Administrator shall multiply the valuation of each air carrier by the compensating exemption factor calculated in section 77-1238.

Sec. 7. Section 77-6306, Revised Statutes Cumulative Supplement, 2016, is amended to read:

77-6306 (1) For taxable years beginning or deemed to begin on or after January 1, 2011, and before January 1, 2018, and for taxable years beginning or deemed to begin on or after January 1, 2019, under the Internal Revenue Code of 1986, as amended, a qualified investor or qualified fund is eligible for a refundable tax credit equal to thirty-five percent of its qualified investment in a qualified small business, except that if the qualified small business is located in a distressed area the qualified investor or qualified fund is eligible for a refundable tax credit equal to forty percent of its qualified investment in the qualified small business. The director shall not allocate more than four million dollars in tax credits to all qualified investors or qualified funds in a calendar year. If the director does not allocate the entire four million dollars of tax credits in a calendar year, the tax credits that are not allocated shall not carry forward to subsequent years. The director shall not allocate any amount for tax credits for calendar year 2018 or for calendar years after 2022.

(2) The director shall not allocate more than a total maximum amount

AM998
LB233
AJC - 04/12/2017

in tax credits for a calendar year to a qualified investor for the investor's cumulative qualified investments as an individual qualified investor and as an investor in a qualified fund as provided in this subsection. For married couples filing joint returns the maximum is three hundred fifty thousand dollars, and for all other filers the maximum is three hundred thousand dollars. The director shall not allocate more than a total of one million dollars in tax credits for qualified investments in any one qualified small business.

(3) The director shall not allocate a tax credit to a qualified investor either as an individual qualified investor or as an investor in a qualified fund if the investor receives more than forty-nine percent of the investor's gross annual income from the qualified small business in which the qualified investment is proposed. A family member of an individual disqualified by this subsection is not eligible for a tax credit under this section. For a married couple filing a joint return, the limitations in this subsection apply collectively to the investor and spouse. For purposes of determining the ownership interest of an investor under this subsection, the rules under section 267(c) and (e) of the Internal Revenue Code of 1986, as amended, apply.

(4) Tax credits shall be allocated to qualified investors or qualified funds in the order that the tax credit applications are filed with the director. Once tax credits have been approved and allocated by the director, the qualified investors and qualified funds shall implement the qualified investment specified within ninety days after allocation of the tax credits. Qualified investors and qualified funds shall notify the director no later than thirty days after the expiration of the ninety-day period that the qualified investment has been made. If the qualified investment is not made within ninety days after allocation of the tax credits, or the director has not, within thirty days following expiration of the ninety-day period, received notification that the qualified investment was made, the tax credit allocation is canceled and available

AM998
LB233
AJC - 04/12/2017

for reallocation. A qualified investor or qualified fund that fails to invest as specified in the application within ninety days after allocation of the tax credits shall notify the director of the failure to invest within five business days after the expiration of the ninety-day investment period.

(5) All tax credit applications filed with the director on the same day shall be treated as having been filed contemporaneously. If two or more qualified investors or qualified funds file tax credit applications on the same day and the aggregate amount of tax credit allocation requests exceeds the aggregate limit of tax credits under this section or the lesser amount of tax credits that remain unallocated on that day, then the tax credits shall be allocated among the qualified investors or qualified funds who filed on that day on a pro rata basis with respect to the amounts requested. The pro rata allocation for any one qualified investor or qualified fund shall be the product obtained by multiplying a fraction, the numerator of which is the amount of the tax credit allocation request filed on behalf of a qualified investor or qualified fund and the denominator of which is the total of all tax credit allocation requests filed on behalf of all applicants on that day, by the amount of tax credits that remain unallocated on that day for the taxable year.

(6) A qualified investor or qualified fund, or a qualified small business acting on behalf of the investor or fund, shall notify the director when an investment for which tax credits were allocated has been made and shall furnish the director with documentation of the investment date. A qualified fund shall also provide the director with a statement indicating the amount invested by each investor in the qualified fund based on each investor's share of the assets of the qualified fund at the time of the qualified investment. After receiving notification that the qualified investment was made, the director shall issue tax credit certificates for the taxable year in which the qualified investment was

AM998
LB233
AJC - 04/12/2017

made to the qualified investor or, for a qualified investment made by a qualified fund, to each qualified investor who is an investor in the fund. The certificate shall state that the tax credit is subject to revocation if the qualified investor or qualified fund does not hold the investment in the qualified small business for at least three years, consisting of the calendar year in which the investment was made and the two following calendar years. The three-year holding period does not apply if:

(a) The qualified investment by the qualified investor or qualified fund becomes worthless before the end of the three-year period;

(b) Eighty percent or more of the assets of the qualified small business are sold before the end of the three-year period;

(c) The qualified small business is sold or merges with another business before the end of the three-year period;

(d) The qualified small business's common stock begins trading on a public exchange before the end of the three-year period; or

(e) In the case of an individual qualified investor, such investor becomes deceased before the end of the three-year period.

(7) The director shall notify the Tax Commissioner that tax credit certificates have been issued, including the amount of tax credits and all other pertinent tax information.

Sec. 8. Original sections 77-202, 77-693, 77-801, 77-1238, 77-1239, 77-1248, and 77-6306, Revised Statutes Cumulative Supplement, 2016, are repealed.

Sec. 9. Since an emergency exists, this act takes effect when passed and approved according to law.