

AMENDMENTS TO LB 902

Introduced by Revenue

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Section 77-202, Revised Statutes Supplement,
4 2011, is amended to read:

5 77-202 (1) The following property shall be exempt from
6 property taxes:

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

11 (i) Property of the state and its governmental
12 subdivisions means (A) property held in fee title by the state or a
13 governmental subdivision or (B) property beneficially owned by the
14 state or a governmental subdivision in that it is used for a public
15 purpose and is being acquired under a lease-purchase agreement,
16 financing lease, or other instrument which provides for transfer
17 of legal title to the property to the state or a governmental
18 subdivision upon payment of all amounts due thereunder; and

19 (ii) Public purpose means use of the property ~~(i)~~
20 (A) to provide public services with or without cost to the
21 recipient, including the general operation of government, public
22 education, public safety, transportation, public works, civil and
23 criminal justice, public health and welfare, developments by a

1 public housing authority, parks, culture, recreation, community
2 development, and cemetery purposes, or ~~(ii)~~ (B) to carry out
3 the duties and responsibilities conferred by law with or without
4 consideration. Public purpose does not include leasing of property
5 to a private party unless the lease of the property is at fair
6 market value for a public purpose. Leases of property by a public
7 housing authority to low-income individuals as a place of residence
8 are for the authority's public purpose;

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

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

3 (d) Property owned by educational, religious, charitable,
4 or cemetery organizations, or any organization for the exclusive
5 benefit of any such educational, religious, charitable, or cemetery
6 organization, and used exclusively for educational, religious,
7 charitable, or cemetery purposes, when such property is not

8 (i) owned or used for financial gain or profit to either the
9 owner or user, (ii) used for the sale of alcoholic liquors for
10 more than twenty hours per week, or (iii) owned or used by
11 an organization which discriminates in membership or employment
12 based on race, color, or national origin. For purposes of this
13 subdivision, educational organization means (A) an institution
14 operated exclusively for the purpose of offering regular courses
15 with systematic instruction in academic, vocational, or technical
16 subjects or assisting students through services relating to the
17 origination, processing, or guarantying of federally reinsured
18 student loans for higher education or (B) a museum or historical
19 society operated exclusively for the benefit and education of the
20 public. For purposes of this subdivision, charitable organization
21 means an organization operated exclusively for the purpose of the
22 mental, social, or physical benefit of the public or an indefinite
23 number of persons; and

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

26 (2) The increased value of land by reason of shade and
27 ornamental trees planted along the highway shall not be taken into

1 account in the valuation of land.

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

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

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

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

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

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

27 (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
5 fuel source includes, but is not limited to, wind turbines, rotors
6 and 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 Sec. 2. Section 77-2704.15, Revised Statutes Supplement,
11 2011, is amended to read:

12 77-2704.15 ~~(1)~~ (1)(a) Sales and use taxes shall not be
13 imposed on the gross receipts from the sale, lease, or rental
14 of and the storage, use, or other consumption in this state of
15 purchases by the state, including public educational institutions
16 recognized or established under the provisions of Chapter 85,
17 or by any county, township, city, village, rural or suburban
18 fire protection district, city airport authority, county airport
19 authority, joint airport authority, drainage district organized
20 under sections 31-401 to 31-450, natural resources district,
21 elected county fair board, housing agency as defined in section
22 71-1575 except for purchases for any commercial operation that
23 does not exclusively benefit the residents of an affordable
24 housing project, cemetery created under section 12-101, or joint
25 entity or agency formed ~~to fulfill the purposes described in the~~
26 ~~Integrated Solid Waste Management Act~~ by any combination of two
27 or more counties, townships, cities, ~~or~~ villages, or other exempt

1 governmental units pursuant to the Interlocal Cooperation Act,
2 the Integrated Solid Waste Management Act, or the Joint Public
3 Agency Act, except for purchases for use in the business of
4 furnishing gas, water, electricity, or heat, or by any irrigation
5 or reclamation district, the irrigation division of any public
6 power and irrigation district, or public schools or learning
7 communities established under Chapter 79.

8 (b) For purposes of this subsection, purchases by the
9 state or by a governmental unit listed in subdivision (a) of
10 this subsection include purchases by a nonprofit corporation under
11 a lease-purchase agreement, financing lease, or other instrument
12 which provides for transfer of title to the property to the state
13 or governmental unit upon payment of all amounts due thereunder.

14 (2) The appointment of purchasing agents shall be
15 recognized for the purpose of altering the status of the
16 construction contractor as the ultimate consumer of building
17 materials which are physically annexed to the structure and which
18 subsequently belong to the state or the governmental unit. The
19 appointment of purchasing agents shall be in writing and occur
20 prior to having any building materials annexed to real estate in
21 the construction, improvement, or repair. The contractor who has
22 been appointed as a purchasing agent may apply for a refund of or
23 use as a credit against a future use tax liability the tax paid
24 on inventory items annexed to real estate in the construction,
25 improvement, or repair of a project for the state or a governmental
26 unit.

27 (3) Any governmental unit listed in subsection (1) of

1 this section, except the state, which enters into a contract
2 of construction, improvement, or repair upon property annexed to
3 real estate without first issuing a purchasing agent authorization
4 to a contractor or repairperson prior to the building materials
5 being annexed to real estate in the project may apply to the Tax
6 Commissioner for a refund of any sales and use tax paid by the
7 contractor or repairperson on the building materials physically
8 annexed to real estate in the construction, improvement, or repair.

9 Sec. 3. Sections 2 and 5 of this act become operative on
10 July 1, 2012. The other sections of this act become operative on
11 their effective date.

12 Sec. 4. Original section 77-202, Revised Statutes
13 Supplement, 2011, is repealed.

14 Sec. 5. Original section 77-2704.15, Revised Statutes
15 Supplement, 2011, is repealed.

16 Sec. 6. Since an emergency exists, this act takes effect
17 when passed and approved according to law.