

AMENDMENTS TO LB259

Introduced by Revenue.

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

3 Section 1. Sections 1 to 5 of this act shall be known and may be
4 cited as the Personal Property Tax Relief Act.

5 Sec. 2. For purposes of the Personal Property Tax Relief Act:

6 (1) Depreciable tangible personal property has the same meaning as
7 in section 77-119; and

8 (2) Taxpayer means any person owning depreciable tangible personal
9 property which is subject to personal property taxes in Nebraska.

10 Sec. 3. Depreciable tangible personal property shall be assessed
11 for taxation in the manner provided by law, except that each taxpayer
12 owning depreciable tangible personal property shall receive an exemption
13 from taxation for the first fifteen thousand dollars of valuation of such
14 property in each county in which a personal property tax return is filed.

15 Sec. 4. The county treasurer shall, on or before November 30 of
16 each year, certify to the Tax Commissioner the total tax revenue that
17 will be lost to all taxing agencies within his or her county from taxes
18 levied and assessed in that year because of the personal property
19 exemptions allowed under the Personal Property Tax Relief Act. The Tax
20 Commissioner shall, on or before January 1 next following such
21 certification, notify the Director of Administrative Services of the
22 amount so certified to be reimbursed by the state. Reimbursement of the
23 funds lost shall be made to each county according to the certification
24 and shall be distributed in six as nearly as possible equal monthly
25 payments on the last business day of each month beginning in January. The
26 State Treasurer shall, on the business day preceding the last business
27 day of each month, notify the Director of Administrative Services of the

1 amount of funds available in the General Fund for payment purposes. The
2 Director of Administrative Services shall, on the last business day of
3 each month, draw warrants against funds appropriated. Out of the amount
4 so received the county treasurer shall distribute to each of the taxing
5 agencies within his or her county the full amount so lost by such agency,
6 except that one percent of such amount shall be deposited in the county
7 general fund. Each taxing agency shall, in preparing its annual or
8 biennial budget, take into account the amount to be received under this
9 section.

10 Sec. 5. The Tax Commissioner may adopt and promulgate rules and
11 regulations necessary to carry out the Personal Property Tax Relief Act.

12 Sec. 6. Section 13-518, Reissue Revised Statutes of Nebraska, is
13 amended to read:

14 13-518 For purposes of sections 13-518 to 13-522:

15 (1) Allowable growth means (a) for governmental units other than
16 community colleges, the percentage increase in taxable valuation in
17 excess of the base limitation established under section 77-3446, if any,
18 due to improvements to real property as a result of new construction,
19 additions to existing buildings, any improvements to real property which
20 increase the value of such property, and any increase in valuation due to
21 annexation and any personal property valuation over the prior year and
22 (b) for community colleges, the percentage increase in excess of the base
23 limitation, if any, in full-time equivalent students from the second year
24 to the first year preceding the year for which the budget is being
25 determined;

26 (2) Capital improvements means (a) acquisition of real property or
27 (b) acquisition, construction, or extension of any improvements on real
28 property;

29 (3) Governing body has the same meaning as in section 13-503;

30 (4) Governmental unit means every political subdivision which has
31 authority to levy a property tax or authority to request levy authority

1 under section 77-3443 except sanitary and improvement districts which
2 have been in existence for five years or less and school districts;

3 (5) Qualified sinking fund means a fund or funds maintained
4 separately from the general fund to pay for acquisition or replacement of
5 tangible personal property with a useful life of five years or more which
6 is to be undertaken in the future but is to be paid for in part or in
7 total in advance using periodic payments into the fund. The term includes
8 sinking funds under subdivision (13) of section 35-508 for firefighting
9 and rescue equipment or apparatus;

10 (6) Restricted funds means (a) property tax, excluding any amounts
11 refunded to taxpayers, (b) payments in lieu of property taxes, (c) local
12 option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers
13 of surpluses from any user fee, permit fee, or regulatory fee if the fee
14 surplus is transferred to fund a service or function not directly related
15 to the fee and the costs of the activity funded from the fee, (g) any
16 funds excluded from restricted funds for the prior year because they were
17 budgeted for capital improvements but which were not spent and are not
18 expected to be spent for capital improvements, (h) the tax provided in
19 sections 77-27,223 to 77-27,227 beginning in the second fiscal year in
20 which the county will receive a full year of receipts, and (i) any excess
21 tax collections returned to the county under section 77-1776. Funds
22 received pursuant to the nameplate capacity tax levied under section
23 77-6203 for the first five years after a wind energy generation facility
24 has been commissioned are nonrestricted funds; and

25 (7) State aid means:

26 (a) For all governmental units, state aid paid pursuant to sections
27 60-3,202 and 77-3523 and section 4 of this act;

28 (b) For municipalities, state aid to municipalities paid pursuant to
29 sections 18-2605, 39-2501 to 39-2520, 60-3,190, and 77-27,139.04 and
30 insurance premium tax paid to municipalities;

31 (c) For counties, state aid to counties paid pursuant to sections

1 39-2501 to 39-2520 and 60-3,184 to 60-3,190, insurance premium tax paid
2 to counties, and reimbursements to counties from funds appropriated
3 pursuant to section 29-3933;

4 (d) For community colleges, (i) for fiscal years 2010-11, 2011-12,
5 and 2012-13, state aid to community colleges paid pursuant to section
6 90-517 and (ii) for fiscal year 2013-14 and each fiscal year thereafter,
7 state aid to community colleges paid pursuant to the Community College
8 Aid Act;

9 (e) For educational service units, state aid appropriated under
10 sections 79-1241.01 and 79-1241.03; and

11 (f) For local public health departments as defined in section
12 71-1626, state aid as distributed under section 71-1628.08.

13 Sec. 7. Section 77-202, Revised Statutes Cumulative Supplement,
14 2014, is amended to read:

15 77-202 (1) The following property shall be exempt from property
16 taxes:

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

20 (i) Property of the state and its governmental subdivisions means
21 (A) property held in fee title by the state or a governmental subdivision
22 or (B) property beneficially owned by the state or a governmental
23 subdivision in that it is used for a public purpose and is being acquired
24 under a lease-purchase agreement, financing lease, or other instrument
25 which provides for transfer of legal title to the property to the state
26 or a governmental subdivision upon payment of all amounts due thereunder.
27 If the property to be beneficially owned by a governmental subdivision
28 has a total acquisition cost that exceeds the threshold amount or will be
29 used as the site of a public building with a total estimated construction
30 cost that exceeds the threshold amount, then such property shall qualify
31 for an exemption under this section only if the question of acquiring

1 such property or constructing such public building has been submitted at
2 a primary, general, or special election held within the governmental
3 subdivision and has been approved by the voters of the governmental
4 subdivision. For purposes of this subdivision, threshold amount means the
5 greater of fifty thousand dollars or six-tenths of one percent of the
6 total actual value of real and personal property of the governmental
7 subdivision that will beneficially own the property as of the end of the
8 governmental subdivision's prior fiscal year; and

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

21 (b) Unleased property of the state or its governmental subdivisions
22 which is not being used or developed for use for a public purpose but
23 upon which a payment in lieu of taxes is paid for public safety, rescue,
24 and emergency services and road or street construction or maintenance
25 services to all governmental units providing such services to the
26 property. Except as provided in Article VIII, section 11, of the
27 Constitution of Nebraska, the payment in lieu of taxes shall be based on
28 the proportionate share of the cost of providing public safety, rescue,
29 or emergency services and road or street construction or maintenance
30 services unless a general policy is adopted by the governing body of the
31 governmental subdivision providing such services which provides for a

1 different method of determining the amount of the payment in lieu of
2 taxes. The governing body may adopt a general policy by ordinance or
3 resolution for determining the amount of payment in lieu of taxes by
4 majority vote after a hearing on the ordinance or resolution. Such
5 ordinance or resolution shall nevertheless result in an equitable
6 contribution for the cost of providing such services to the exempt
7 property;

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

10 (d) Property owned by educational, religious, charitable, or
11 cemetery organizations, or any organization for the exclusive benefit of
12 any such educational, religious, charitable, or cemetery organization,
13 and used exclusively for educational, religious, charitable, or cemetery
14 purposes, when such property is not (i) owned or used for financial gain
15 or profit to either the owner or user, (ii) used for the sale of
16 alcoholic liquors for more than twenty hours per week, or (iii) owned or
17 used by an organization which discriminates in membership or employment
18 based on race, color, or national origin. For purposes of this
19 subdivision, educational organization means (A) an institution operated
20 exclusively for the purpose of offering regular courses with systematic
21 instruction in academic, vocational, or technical subjects or assisting
22 students through services relating to the origination, processing, or
23 guarantying of federally reinsured student loans for higher education or
24 (B) a museum or historical society operated exclusively for the benefit
25 and education of the public. For purposes of this subdivision, charitable
26 organization means an organization operated exclusively for the purpose
27 of the mental, social, or physical benefit of the public or an indefinite
28 number of persons; and

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

31 (2) The increased value of land by reason of shade and ornamental

1 trees planted along the highway shall not be taken into account in the
2 valuation of land.

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

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

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

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

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

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

25 (9) Any depreciable tangible personal property used directly in the
26 generation of electricity using wind as the fuel source shall be exempt
27 from the property tax levied on depreciable tangible personal property.
28 Depreciable tangible personal property used directly in the generation of
29 electricity using wind as the fuel source includes, but is not limited
30 to, wind turbines, rotors and blades, towers, trackers, generating
31 equipment, transmission components, substations, supporting structures or

1 racks, inverters, and other system components such as wiring, control
2 systems, switchgears, and generator step-up transformers.

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

21 (11) The first fifteen thousand dollars of valuation of depreciable
22 tangible personal property shall be exempt from the personal property tax
23 as provided in the Personal Property Tax Relief Act.

24 Sec. 8. Section 77-693, Reissue Revised Statutes of Nebraska, is
25 amended to read:

26 77-693 (1) The Property Tax Administrator in determining the taxable
27 value of railroads and car lines shall determine the following ratios
28 involving railroad and car line property and commercial and industrial
29 property:

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

1 by the market value of all commercial and industrial personal property in
2 the state;

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

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

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

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

23 (2) If the ratio of the taxable value of railroad and car line
24 personal or real property exceeds the ratio of the comparable taxable
25 commercial and industrial property by more than five percent, the
26 Property Tax Administrator may adjust the value of such railroad and car
27 line property to the percentage of the comparable taxable commercial and
28 industrial property pursuant to federal statute or Nebraska federal court
29 decisions applicable thereto. The Property Tax Administrator shall also
30 adjust the ratio to reflect the reduction in personal property valuation
31 of the comparable taxable commercial and industrial property pursuant to

1 the Personal Property Tax Relief Act.

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

6 Sec. 9. Section 77-802, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 77-802 The Property Tax Administrator shall apportion the total
9 taxable value including the franchise value to all taxing subdivisions in
10 proportion to the ratio of the original cost of all operating real and
11 tangible personal property of that public service entity having a situs
12 in that taxing subdivision to the original cost of all operating real and
13 tangible personal property of that public service entity having a situs
14 in the state.

15 If the apportionment in accordance with this section does not fairly
16 represent the proportion of the taxable value, including franchise value
17 properly allocable to the county, the taxpayer may petition for or the
18 Property Tax Administrator may require the inclusion of any other method
19 to effectuate an equitable allocation of the value of the public service
20 entity for purposes of taxation. The Property Tax Administrator shall
21 also adjust the proportion of taxable value to reflect the reduction in
22 personal property valuation of other taxable commercial and industrial
23 property pursuant to the Personal Property Tax Relief Act.

24 On or before July 25, the Property Tax Administrator shall mail a
25 draft appraisal to each public service entity as defined in section
26 77-801.01. On or before August 10, the Property Tax Administrator shall,
27 by mail, notify each public service entity of its taxable value and the
28 distribution of that value to the taxing subdivisions in which the entity
29 has situs. On or before August 10, the Property Tax Administrator shall
30 also certify to the county assessors the taxable value so determined.

31 Sec. 10. Section 77-1229, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 77-1229 (1) Every person required by section 77-1201 to list and
3 value taxable tangible personal property shall list such property upon
4 the forms prescribed by the Tax Commissioner unless the value of such
5 property is less than one thousand dollars. The forms shall be available
6 from the county assessor and when completed shall be signed by each
7 person or his or her agent and be filed with the county assessor. The
8 forms shall be filed on or before May 1 of each year.

9 (2) Any person seeking a personal property exemption pursuant to
10 subsection (2) of section 77-4105 or the Nebraska Advantage Act shall
11 annually file a copy of the forms required pursuant to section 77-4105 or
12 the act with the county assessor in each county in which the person is
13 requesting exemption. The copy shall be filed on or before May 1. Failure
14 to timely file the required forms shall cause the forfeiture of the
15 exemption for the tax year. If a taxpayer pursuant to this subsection
16 also has taxable tangible personal property, such property shall be
17 listed and valued as required under subsection (1) of this section.

18 Sec. 11. Section 77-1245, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 77-1245 Any tax upon or measured by the value of flight equipment of
21 air carriers incorporated or doing business in this state shall be
22 assessed, collected by the Property Tax Administrator, and disbursed as
23 provided in section 77-1250. The proportion of flight equipment allocated
24 to this state for purposes of taxation shall be the arithmetical average
25 of the following three ratios: (1) The ratio which the aircraft arrivals
26 and departures within this state scheduled by such air carrier during the
27 preceding calendar year bears to the total aircraft arrivals and
28 departures within and without this state scheduled by such carrier during
29 the same period, except that in the case of nonscheduled operations all
30 arrivals and departures shall be substituted for scheduled arrivals and
31 departures; (2) the ratio which the revenue tons handled by such air

1 carrier at airports within this state during the preceding calendar year
2 bears to the total revenue tons handled by such carrier at airports
3 within and without this state during the same period; and (3) the ratio
4 which such air carrier's originating revenue within this state for the
5 preceding calendar year bears to the total originating revenue of such
6 carrier within and without this state for the same period.

7 If allocation in accordance with the provisions of this section does
8 not fairly represent the proportion of flight equipment properly
9 allocable to this state, the taxpayer may petition for, or the Property
10 Tax Administrator may require, the inclusion of one or more additional
11 ratios or the employment of any other method to effectuate an equitable
12 allocation of the taxpayer's flight equipment for purposes of taxation.
13 The Property Tax Administrator shall also adjust the proportion of
14 taxable value to reflect the reduction in personal property valuation of
15 other taxable commercial and industrial property pursuant to the Personal
16 Property Tax Relief Act.

17 Sec. 12. This act becomes operative on January 1, 2016.

18 Sec. 13. Original sections 13-518, 77-693, 77-1229, and 77-1245,
19 Reissue Revised Statutes of Nebraska, and sections 77-202 and 77-802,
20 Revised Statutes Cumulative Supplement, 2014, are repealed.