

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 414**

FINAL READING

Introduced by Harr, 8.

Read first time January 16, 2015

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 44-1095, Reissue Revised Statutes of Nebraska, and section 77-202,
- 3 Revised Statutes Cumulative Supplement, 2014; to provide a property
- 4 tax exemption for fraternal benefit societies; to harmonize
- 5 provisions; to provide an operative date; and to repeal the original
- 6 sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-1095, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 44-1095 Every society organized or licensed under sections 44-1072  
4 to 44-10,109 shall be a charitable and benevolent institution, and all of  
5 its funds and property shall be exempt from all and every state, county,  
6 district, municipal, and school tax ~~other than taxes on real estate and~~  
7 ~~office equipment.~~

8 Sec. 2. Section 77-202, Revised Statutes Cumulative Supplement,  
9 2014, is amended to read:

10 77-202 (1) The following property shall be exempt from property  
11 taxes:

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

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

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

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

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

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

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

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

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

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

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

1 property tax.

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

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

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

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

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

21 (9) Any depreciable tangible personal property used directly in the  
22 generation of electricity using wind as the fuel source shall be exempt  
23 from the property tax levied on depreciable tangible personal property.  
24 Depreciable tangible personal property used directly in the generation of  
25 electricity using wind as the fuel source includes, but is not limited  
26 to, wind turbines, rotors and blades, towers, trackers, generating  
27 equipment, transmission components, substations, supporting structures or  
28 racks, inverters, and other system components such as wiring, control  
29 systems, switchgears, and generator step-up transformers.

30 (10) Any tangible personal property that is acquired by a person  
31 operating a data center located in this state, that is assembled,

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

17       Sec. 3. This act becomes operative on January 1, 2016.

18       Sec. 4. Original section 44-1095, Reissue Revised Statutes of  
19 Nebraska, and section 77-202, Revised Statutes Cumulative Supplement,  
20 2014, are repealed.