

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 398

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 77-202, Revised Statutes Cumulative Supplement, 2014; to exempt all
- 3 tangible personal property from property tax; and to repeal the
- 4 original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-202, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

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

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

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

28 (ii) Public purpose means use of the property (A) to provide public
29 services with or without cost to the recipient, including the general
30 operation of government, public education, public safety, transportation,
31 public works, civil and criminal justice, public health and welfare,

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

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

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

29 (d) Property owned by educational, religious, charitable, or
30 cemetery organizations, or any organization for the exclusive benefit of
31 any such educational, religious, charitable, or cemetery organization,

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

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

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

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

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

27 (5) Business and agricultural inventory shall be exempt from the
28 personal property tax. For purposes of this subsection, business
29 inventory includes personal property owned for purposes of leasing or
30 renting such property to others for financial gain only if the personal
31 property is of a type which in the ordinary course of business is leased

1 or rented thirty days or less and may be returned at the option of the
2 lessee or renter at any time and the personal property is of a type which
3 would be considered household goods or personal effects if owned by an
4 individual. All other personal property owned for purposes of leasing or
5 renting such property to others for financial gain shall not be
6 considered business inventory.

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

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

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

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

22 (10) Any tangible personal property that is acquired by a person
23 operating a data center located in this state, that is assembled,
24 engineered, processed, fabricated, manufactured into, attached to, or
25 incorporated into other tangible personal property, both in component
26 form or that of an assembled product, for the purpose of subsequent use
27 at a physical location outside this state by the person operating a data
28 center shall be exempt from the personal property tax. Such exemption
29 extends to keeping, retaining, or exercising any right or power over
30 tangible personal property in this state for the purpose of subsequently
31 transporting it outside this state for use thereafter outside this state.

1 For purposes of this subsection, data center means computers, supporting
2 equipment, and other organized assembly of hardware or software that are
3 designed to centralize the storage, management, or dissemination of data
4 and information, environmentally controlled structures or facilities or
5 interrelated structures or facilities that provide the infrastructure for
6 housing the equipment, such as raised flooring, electricity supply,
7 communication and data lines, Internet access, cooling, security, and
8 fire suppression, and any building housing the foregoing.

9 (11) Beginning January 1, 2017, all tangible personal property shall
10 be exempt from property tax.

11 Sec. 2. Original section 77-202, Revised Statutes Cumulative
12 Supplement, 2014, is repealed.