

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 902**

Introduced by Harr, 8; Flood, 19; Nordquist, 7.

Read first time January 09, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections 77-202  
2 and 77-2704.15, Revised Statutes Supplement, 2011; to  
3 define a term relating to property tax exemptions; to  
4 change provisions relating to a sales tax exemption for  
5 purchases by the state or a governmental unit and provide  
6 for applicability; to repeal the original sections; and  
7 to declare an emergency.  
8 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-202, Revised Statutes Supplement,  
2   2011, is amended to read:

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

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

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

17           (ii) Public purpose means use of the property ~~(i)-(A)~~ to  
18   provide public services with or without cost to the recipient,  
19   including the general operation of government, public education,  
20   public safety, transportation, public works, civil and criminal  
21   justice, public health and welfare, developments by a public housing  
22   authority, parks, culture, recreation, community development, and  
23   cemetery purposes, or ~~(ii)-(B)~~ to carry out the duties and  
24   responsibilities conferred by law with or without consideration.  
25   Public purpose does not include leasing of property to a private

1 party unless the lease of the property is at fair market value for a  
2 public purpose. Leases of property by a public housing authority to  
3 low-income individuals as a place of residence are for the  
4 authority's public purpose;

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

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

25 (d) Property owned by educational, religious, charitable,

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

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

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

25 (3) Tangible personal property which is not depreciable

1 tangible personal property as defined in section 77-119 shall be  
2 exempt from property tax.

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

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

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

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

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

24 (9) Any depreciable tangible personal property used  
25 directly in the generation of electricity using wind as the fuel

1 source shall be exempt from the property tax levied on depreciable  
2 tangible personal property. Depreciable tangible personal property  
3 used directly in the generation of electricity using wind as the fuel  
4 source includes, but is not limited to, wind turbines, rotors and  
5 blades, towers, trackers, generating equipment, transmission  
6 components, substations, supporting structures or racks, inverters,  
7 and other system components such as wiring, control systems,  
8 switchgears, and generator step-up transformers.

9           Sec. 2. Section 77-2704.15, Revised Statutes Supplement,  
10 2011, is amended to read:

11           77-2704.15 ~~(1)~~(1)(a) Sales and use taxes shall not be  
12 imposed on the gross receipts from the sale, lease, or rental of and  
13 the storage, use, or other consumption in this state of purchases by  
14 the state, including public educational institutions recognized or  
15 established under the provisions of Chapter 85, or by any county,  
16 township, city, village, rural or suburban fire protection district,  
17 city airport authority, county airport authority, joint airport  
18 authority, drainage district organized under sections 31-401 to  
19 31-450, natural resources district, elected county fair board,  
20 housing agency as defined in section 71-1575 except for purchases for  
21 any commercial operation that does not exclusively benefit the  
22 residents of an affordable housing project, cemetery created under  
23 section 12-101, or joint entity or agency formed to fulfill the  
24 purposes described in the Integrated Solid Waste Management Act by  
25 any combination of two or more counties, townships, cities, or

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

8 (b) For purposes of this subsection, purchases by the  
9 state or by a governmental unit listed in subdivision (a) of this  
10 subsection include purchases by a nonprofit corporation under a  
11 lease-purchase agreement, financing lease, or other instrument which  
12 provides for transfer of title to the property to the state or  
13 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 construction  
16 contractor as the ultimate consumer of building materials which are  
17 physically annexed to the structure and which subsequently belong to  
18 the state or the governmental unit. The appointment of purchasing  
19 agents shall be in writing and occur prior to having any building  
20 materials annexed to real estate in the construction, improvement, or  
21 repair. The contractor who has been appointed as a purchasing agent  
22 may apply for a refund of or use as a credit against a future use tax  
23 liability the tax paid on inventory items annexed to real estate in  
24 the construction, improvement, or repair of a project for the state  
25 or a governmental unit.

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

10           (4) The changes made to this section by this legislative  
11 bill shall apply retrospectively as well as prospectively.

12           Sec. 3. Original sections 77-202 and 77-2704.15, Revised  
13 Statutes Supplement, 2011, are repealed.

14           Sec. 4. Since an emergency exists, this act takes effect  
15 when passed and approved according to law.