

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1080

Final Reading

Introduced by Cornett, 45; Smith, 14.

Read first time January 18, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701 and 77-2701.04, Reissue Revised Statutes of
3 Nebraska, and section 77-202, Revised Statutes
4 Supplement, 2011; to provide a property tax exemption and
5 a sales and use tax exemption relating to data centers;
6 to define a term; to harmonize provisions; to provide an
7 operative date; and to repeal the original sections.
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 purpose means use of the property (i) to
9 provide public services with or without cost to the recipient,
10 including the general operation of government, public education,
11 public safety, transportation, public works, civil and criminal
12 justice, public health and welfare, developments by a public housing
13 authority, parks, culture, recreation, community development, and
14 cemetery purposes, or (ii) to carry out the duties and
15 responsibilities conferred by law with or without consideration.
16 Public purpose does not include leasing of property to a private
17 party unless the lease of the property is at fair market value for a
18 public purpose. Leases of property by a public housing authority to
19 low-income individuals as a place of residence are for the
20 authority's public purpose;

21 (b) Unleased property of the state or its governmental
22 subdivisions which is not being used or developed for use for a
23 public purpose but upon which a payment in lieu of taxes is paid for
24 public safety, rescue, and emergency services and road or street
25 construction or maintenance services to all governmental units

1 providing such services to the property. Except as provided in
2 Article VIII, section 11, of the Constitution of Nebraska, the
3 payment in lieu of taxes shall be based on the proportionate share of
4 the cost of providing public safety, rescue, or emergency services
5 and road or street construction or maintenance services unless a
6 general policy is adopted by the governing body of the governmental
7 subdivision providing such services which provides for a different
8 method of determining the amount of the payment in lieu of taxes. The
9 governing body may adopt a general policy by ordinance or resolution
10 for determining the amount of payment in lieu of taxes by majority
11 vote after a hearing on the ordinance or resolution. Such ordinance
12 or resolution shall nevertheless result in an equitable contribution
13 for the cost of providing such services to the exempt property;

14 (c) Property owned by and used exclusively for
15 agricultural and horticultural societies;

16 (d) Property owned by educational, religious, charitable,
17 or cemetery organizations, or any organization for the exclusive
18 benefit of any such educational, religious, charitable, or cemetery
19 organization, and used exclusively for educational, religious,
20 charitable, or cemetery purposes, when such property is not (i) owned
21 or used for financial gain or profit to either the owner or user,
22 (ii) used for the sale of alcoholic liquors for more than twenty
23 hours per week, or (iii) owned or used by an organization which
24 discriminates in membership or employment based on race, color, or
25 national origin. For purposes of this subdivision, educational

1 organization means (A) an institution operated exclusively for the
2 purpose of offering regular courses with systematic instruction in
3 academic, vocational, or technical subjects or assisting students
4 through services relating to the origination, processing, or
5 guarantying of federally reinsured student loans for higher education
6 or (B) a museum or historical society operated exclusively for the
7 benefit and education of the public. For purposes of this
8 subdivision, charitable organization means an organization operated
9 exclusively for the purpose of the mental, social, or physical
10 benefit of the public or an indefinite number of persons; and

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

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

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

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

22 (5) Business and agricultural inventory shall be exempt
23 from the personal property tax. For purposes of this subsection,
24 business inventory includes personal property owned for purposes of
25 leasing or renting such property to others for financial gain only if

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

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

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

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

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

25 (10) Any tangible personal property that is acquired by a

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

20 Sec. 2. Section 77-2701, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to
23 77-27,236 and sections 4 and 5 of this act shall be known and may be
24 cited as the Nebraska Revenue Act of 1967.

25 Sec. 3. Section 77-2701.04, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 77-2701.04 For purposes of sections 77-2701.04 to 77-2713
3 and sections 4 and 5 of this act, unless the context otherwise
4 requires, the definitions found in sections 77-2701.05 to 77-2701.53
5 and section 4 of this act shall be used.

6 Sec. 4. Data center means computers, supporting
7 equipment, and other organized assembly of hardware or software that
8 are designed to centralize the storage, management, or dissemination
9 of data and information, environmentally controlled structures or
10 facilities or interrelated structures or facilities that provide the
11 infrastructure for housing the equipment, such as raised flooring,
12 electricity supply, communication and data lines, Internet access,
13 cooling, security, and fire suppression, and any building housing the
14 foregoing.

15 Sec. 5. Sales and use taxes shall not be imposed on the
16 gross receipts from the sale, lease, or rental of and the storage,
17 use, or other consumption in this state of tangible personal property
18 and services acquired by a person operating a data center located in
19 this state that are assembled, engineered, processed, fabricated,
20 manufactured into, attached to, or incorporated into other tangible
21 personal property for the purpose of subsequent use at a physical
22 location outside this state. Such exemption extends to keeping,
23 retaining, or exercising any right or power over such tangible
24 personal property in this state for the purpose of subsequently
25 transporting it outside this state for use thereafter outside this

1 state.

2 Sec. 6. This act becomes operative on January 1, 2013.

3 Sec. 7. Original sections 77-2701 and 77-2701.04, Reissue
4 Revised Statutes of Nebraska, and section 77-202, Revised Statutes
5 Supplement, 2011, are repealed.