

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 675

Introduced by Chambers, 11.

Read first time January 08, 2014

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section 77-202,
2 Revised Statutes Cumulative Supplement, 2012, and section
3 77-382, Revised Statutes Supplement, 2013; to eliminate
4 the property tax exemption for property owned by
5 religious organizations; to harmonize provisions; to
6 provide an operative date; and to repeal the original
7 sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-202, Revised Statutes Cumulative
2 Supplement, 2012, 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:

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. If the
17 property to be beneficially owned by a governmental subdivision has a
18 total acquisition cost that exceeds the threshold amount or will be
19 used as the site of a public building with a total estimated
20 construction cost that exceeds the threshold amount, then such
21 property shall qualify for an exemption under this section only if
22 the question of acquiring such property or constructing such public
23 building has been submitted at a primary, general, or special
24 election held within the governmental subdivision and has been
25 approved by the voters of the governmental subdivision. For purposes

1 of this subdivision, threshold amount means the greater of fifty
2 thousand dollars or six-tenths of one percent of the total actual
3 value of real and personal property of the governmental subdivision
4 that will beneficially own the property as of the end of the
5 governmental subdivision's prior fiscal year; and

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

19 (b) Unleased property of the state or its governmental
20 subdivisions which is not being used or developed for use for a
21 public purpose but upon which a payment in lieu of taxes is paid for
22 public safety, rescue, and emergency services and road or street
23 construction or maintenance services to all governmental units
24 providing such services to the property. Except as provided in
25 Article VIII, section 11, of the Constitution of Nebraska, the

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

12 (c) Property owned by and used exclusively for
13 agricultural and horticultural societies;

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

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

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

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

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

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

20 (5) Business and agricultural inventory shall be exempt
21 from the personal property tax. For purposes of this subsection,
22 business inventory includes personal property owned for purposes of
23 leasing or renting such property to others for financial gain only if
24 the personal property is of a type which in the ordinary course of
25 business is leased or rented thirty days or less and may be returned

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

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

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

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

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

23 (10) Any tangible personal property that is acquired by a
24 person operating a data center located in this state, that is
25 assembled, engineered, processed, fabricated, manufactured into,

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

18 Sec. 2. Section 77-382, Revised Statutes Supplement,
19 2013, is amended to read:

20 77-382 (1) The department shall prepare a tax expenditure
21 report describing (a) the basic provisions of the Nebraska tax laws,
22 (b) the actual or estimated revenue loss caused by the exemptions,
23 deductions, exclusions, deferrals, credits, and preferential rates in
24 effect on July 1 of each year and allowed under Nebraska's tax
25 structure and in the property tax, and (c) the elements which make up

1 the tax base for state and local income, including income, sales and
2 use, property, and miscellaneous taxes.

3 (2) The department shall review the major tax exemptions
4 for which state general funds are used to reduce the impact of
5 revenue lost due to a tax expenditure. The report shall indicate an
6 estimate of the amount of the reduction in revenue resulting from the
7 operation of all tax expenditures. The report shall list each tax
8 expenditure relating to sales and use tax under the following
9 categories:

10 (a) Agriculture, which shall include a separate listing
11 for the following items: Agricultural machinery; agricultural
12 chemicals; seeds sold to commercial producers; water for irrigation
13 and manufacturing; commercial artificial insemination; mineral oil as
14 dust suppressant; animal grooming; oxygen for use in aquaculture;
15 animal life whose products constitute food for human consumption; and
16 grains;

17 (b) Business across state lines, which shall include a
18 separate listing for the following items: Property shipped out-of-
19 state; fabrication labor for items to be shipped out-of-state;
20 property to be transported out-of-state; property purchased in other
21 states to be used in Nebraska; aircraft delivery to an out-of-state
22 resident or business; state reciprocal agreements for industrial
23 machinery; and property taxed in another state;

24 (c) Common carrier and logistics, which shall include a
25 separate listing for the following items: Railroad rolling stock and

1 repair parts and services; common or contract carriers and repair
2 parts and services; common or contract carrier accessories; and
3 common or contract carrier safety equipment;

4 (d) Consumer goods, which shall include a separate
5 listing for the following items: Motor vehicles and motorboat trade-
6 ins; merchandise trade-ins; certain medical equipment and medicine;
7 newspapers; laundromats; telefloral deliveries; motor vehicle
8 discounts for the disabled; and political campaign fundraisers;

9 (e) Energy, which shall include a separate listing for
10 the following items: Motor fuels; energy used in industry; energy
11 used in agriculture; aviation fuel; and minerals, oil, and gas
12 severed from real property;

13 (f) Food, which shall include a separate listing for the
14 following items: Food for home consumption; Supplemental Nutrition
15 Assistance Program; school lunches; meals sold by hospitals; meals
16 sold by institutions at a flat rate; food for the elderly,
17 handicapped, and Supplemental Security Income recipients; and meals
18 sold by churches;

19 (g) General business, which shall include a separate
20 listing for the following items: Component and ingredient parts;
21 manufacturing machinery; containers; film rentals; molds and dies;
22 syndicated programming; intercompany sales; intercompany leases; sale
23 of a business or farm machinery; and transfer of property in a change
24 of business ownership;

25 (h) Lodging and shelter, which shall include a separate

1 listing for the following item: Room rentals by certain institutions;

2 (i) Miscellaneous, which shall include a separate listing
3 for the following items: Cash discounts and coupons; separately
4 stated finance charges; casual sales; lease-to-purchase agreements;
5 and separately stated taxes;

6 (j) Nonprofits, governments, and exempt entities, which
7 shall include a separate listing for the following items: Purchases
8 by political subdivisions of the state; purchases by churches and
9 nonprofit colleges and medical facilities; purchasing agents for
10 public real estate construction improvements; contractor as
11 purchasing agent for public agencies; Nebraska lottery; admissions to
12 school events; sales on Native American Indian reservations; school-
13 supporting fundraisers; fine art purchases by a museum; purchases by
14 the Nebraska State Fair Board; purchases by the Nebraska Investment
15 Finance Authority and licensees of the State Racing Commission;
16 purchases by the United States Government; public records; and sales
17 by religious organizations;

18 (k) Recent sales tax expenditures, which shall include a
19 separate listing for each sales tax expenditure created by statute or
20 rule and regulation after July 19, 2012; and

21 (l) Telecommunications, which shall include a separate
22 listing for the following items: Telecommunications access charges;
23 prepaid calling arrangements; conference bridging services; and
24 nonvoice data services.

25 (3) It is the intent of the Legislature that nothing in

1 the Tax Expenditure Reporting Act shall cause the valuation or
2 assessment of any property exempt from taxation on the basis of its
3 use exclusively for ~~religious~~, educational, or charitable purposes.

4 Sec. 3. This act becomes operative on January 1, 2015.

5 Sec. 4. Original section 77-202, Revised Statutes
6 Cumulative Supplement, 2012, and section 77-382, Revised Statutes
7 Supplement, 2013, are repealed.