

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SPECIAL SESSION

**LEGISLATIVE BILL 38**

Introduced by Kauth, 31.

Read first time July 29, 2024

Committee: Revenue

- 1 A BILL FOR AN ACT relating to property tax; to amend section 77-202,
- 2 Revised Statutes Cumulative Supplement, 2022, as amended by Laws
- 3 2024, LB874, section 10, and Laws 2024, LB1317, section 73; to
- 4 change provisions relating to property that is exempt from property
- 5 taxes; and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-202, Revised Statutes Cumulative Supplement,  
2 2022, as amended by Laws 2024, LB874, section 10, and Laws 2024, LB1317,  
3 section 73, is amended to read:

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

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

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

29 (ii) Public purpose means use of the property (A) to provide public  
30 services with or without cost to the recipient, including the general  
31 operation of government, public education, public safety, transportation,

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

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

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

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

1 any such educational, religious, charitable, or cemetery organization,  
2 and used exclusively for educational, religious, charitable, or cemetery  
3 purposes, when such property is not (A) owned or used for financial gain  
4 or profit to either the owner or user, (B) used for the sale of alcoholic  
5 liquors for more than twenty hours per week, or (C) owned or used by an  
6 organization which discriminates in membership or employment based on  
7 race, color, or national origin.

8 (ii) For purposes of subdivision (1)(d) of this section:

9 (A) Educational organization means (I) an institution operated  
10 exclusively for the purpose of offering regular courses with systematic  
11 instruction in academic, vocational, or technical subjects or assisting  
12 students through services relating to the origination, processing, or  
13 guarantying of federally reinsured student loans for higher education,  
14 (II) a museum or historical society operated exclusively for the benefit  
15 and education of the public, or (III) a nonprofit organization that owns  
16 or operates a child care facility; and

17 (B) Charitable organization includes (I) an organization operated  
18 exclusively for the purpose of the mental, social, or physical benefit of  
19 the public or an indefinite number of persons and (II) a fraternal  
20 benefit society organized and licensed under sections 44-1072 to  
21 44-10,109.

22 (iii) The property tax exemption authorized in subdivision (1)(d)(i)  
23 of this section shall apply to any skilled nursing facility as defined in  
24 section 71-429, nursing facility as defined in section 71-424, or  
25 assisted-living facility as defined in section 71-5903 that provides  
26 housing for medicaid beneficiaries, except that the exemption amount for  
27 such property shall be a percentage of the property taxes that would  
28 otherwise be due. Such percentage shall be equal to the average  
29 percentage of occupied beds in the facility provided to medicaid  
30 beneficiaries over the most recent three-year period.

31 (iv) The property tax exemption authorized in subdivision (1)(d)(i)

1 of this section shall apply to a building that (A) is owned by a  
2 charitable organization, (B) is made available to students in attendance  
3 at an educational institution, and (C) is recognized by such educational  
4 institution as approved student housing, except that the exemption shall  
5 only apply to the commons area of such building, including any common  
6 rooms and cooking and eating facilities; and

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

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

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

15 (4) Motor vehicles, trailers, and semitrailers required to be  
16 registered for operation on the highways of this state shall be exempt  
17 from payment of property taxes.

18 (5) Business and agricultural inventory shall be exempt from the  
19 personal property tax. For purposes of this subsection, business  
20 inventory includes personal property owned for purposes of leasing or  
21 renting such property to others for financial gain only if the personal  
22 property is of a type which in the ordinary course of business is leased  
23 or rented thirty days or less and may be returned at the option of the  
24 lessee or renter at any time and the personal property is of a type which  
25 would be considered household goods or personal effects if owned by an  
26 individual. All other personal property owned for purposes of leasing or  
27 renting such property to others for financial gain shall not be  
28 considered business inventory.

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

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

2 (8) Any personal property exempt pursuant to the Nebraska Advantage  
3 Act or the Imagine Nebraska Act shall be exempt from the personal  
4 property tax.

5 (9) Any depreciable tangible personal property used directly in the  
6 generation of electricity using wind as the fuel source shall be exempt  
7 from the property tax levied on depreciable tangible personal property.  
8 Any depreciable tangible personal property used directly in the  
9 generation of electricity using solar, biomass, or landfill gas as the  
10 fuel source shall be exempt from the property tax levied on depreciable  
11 tangible personal property if such depreciable tangible personal property  
12 was installed on or after January 1, 2016, and has a nameplate capacity  
13 of one hundred kilowatts or more. Depreciable tangible personal property  
14 used directly in the generation of electricity using wind, solar,  
15 biomass, or landfill gas as the fuel source includes, but is not limited  
16 to, wind turbines, rotors and blades, towers, solar panels, trackers,  
17 generating equipment, transmission components, substations, supporting  
18 structures or racks, inverters, and other system components such as  
19 wiring, control systems, switchgears, and generator step-up transformers.

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

1 designed to centralize the storage, management, or dissemination of data  
2 and information, environmentally controlled structures or facilities or  
3 interrelated structures or facilities that provide the infrastructure for  
4 housing the equipment, such as raised flooring, electricity supply,  
5 communication and data lines, Internet access, cooling, security, and  
6 fire suppression, and any building housing the foregoing.

7 (11) For tax years prior to tax year 2020, each person who owns  
8 property required to be reported to the county assessor under section  
9 77-1201 shall be allowed an exemption amount as provided in the Personal  
10 Property Tax Relief Act. For tax years prior to tax year 2020, each  
11 person who owns property required to be valued by the state as provided  
12 in section 77-601, 77-682, 77-801, or 77-1248 shall be allowed a  
13 compensating exemption factor as provided in the Personal Property Tax  
14 Relief Act.

15 (12)(a) Broadband equipment shall be exempt from the personal  
16 property tax if such broadband equipment is:

17 (i) Deployed in an area funded in whole or in part by funds from the  
18 Broadband Equity, Access, and Deployment Program, authorized by the  
19 federal Infrastructure Investment and Jobs Act, Public Law 117-58; or

20 (ii) Deployed in a qualified census tract located within the  
21 corporate limits of a city of the metropolitan class and being utilized  
22 to provide end-users with access to the Internet at speeds of at least  
23 one hundred megabits per second for downloading and at least one hundred  
24 megabits per second for uploading.

25 (b) An owner of broadband equipment seeking an exemption under this  
26 section shall apply for an exemption to the county assessor on or before  
27 December 31 of the year preceding the year for which the exemption is to  
28 begin. If the broadband equipment meets the criteria described in this  
29 subsection, the county assessor shall approve the application within  
30 thirty calendar days after receiving the application. The application  
31 shall be on forms prescribed by the Tax Commissioner.

1 (c) For purposes of this subsection:

2 (i) Broadband communications service means telecommunications  
3 service as defined in section 86-121, video programming as defined in 47  
4 U.S.C. 522, as such section existed on January 1, 2024, or Internet  
5 access as defined in section 1104 of the federal Internet Tax Freedom  
6 Act, Public Law 105-277;

7 (ii) Broadband equipment means machinery or equipment used to  
8 provide broadband communications service and includes, but is not limited  
9 to, wires, cables, fiber, conduits, antennas, poles, switches, routers,  
10 amplifiers, rectifiers, repeaters, receivers, multiplexers, duplexers,  
11 transmitters, circuit cards, insulating and protective materials and  
12 cases, power equipment, backup power equipment, diagnostic equipment,  
13 storage devices, modems, and other general central office or headend  
14 equipment, such as channel cards, frames, and cabinets, or equipment used  
15 in successor technologies, including items used to monitor, test,  
16 maintain, enable, or facilitate qualifying equipment, machinery,  
17 software, ancillary components, appurtenances, accessories, or other  
18 infrastructure that is used in whole or in part to provide broadband  
19 communications service. Machinery or equipment used to produce broadband  
20 communications service does not include personal consumer electronics,  
21 including, but not limited to, smartphones, computers, and tablets; and

22 (iii) Qualified census tract means a qualified census tract as  
23 defined in 26 U.S.C. 42(d)(5)(B)(ii)(I), as such section existed on  
24 January 1, 2024.

25 Sec. 2. Original section 77-202, Revised Statutes Cumulative  
26 Supplement, 2022, as amended by Laws 2024, LB874, section 10, and Laws  
27 2024, LB1317, section 73, is repealed.