

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 628

Introduced by Dover, 19.

Read first time January 22, 2025

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 76-214 and 77-202, Revised Statutes Cumulative Supplement, 2024; to
3 adopt the Recreational Trail Easement Property Tax Exemption Act; to
4 change provisions relating to the filing of statements of recorded
5 easements and property tax exemptions; to provide an operative date;
6 and to repeal the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 6 of this act shall be known and may be
2 cited as the Recreational Trail Easement Property Tax Exemption Act.

3 **Sec. 2.** The Legislature finds and declares that the purpose of the
4 Recreational Trail Easement Property Tax Exemption Act is to serve a
5 public purpose by:

6 (1) Promoting public health and wellness through access to
7 recreational trails;

8 (2) Encouraging economic development and tourism by expanding
9 regional and state trail systems;

10 (3) Supporting environmental conservation by protecting and
11 maintaining open spaces for recreational use; and

12 (4) Enhancing connectivity between communities, cultural landmarks,
13 and natural resources to provide equitable access for all Nebraskans.

14 **Sec. 3.** For purposes of the Recreational Trail Easement Property
15 Tax Exemption Act:

16 (1) Eligible holder means:

17 (a) A municipality, county, or a land trust accredited by the Land
18 Trust Alliance authorized to hold recreational trail easements within the
19 State of Nebraska; or

20 (b) A nonprofit organization with a mission explicitly aligned with
21 public access, recreational land conservation, and community benefit,
22 authorized to hold recreational trail easements within the State of
23 Nebraska; and

24 (2) Recreational trail easement means a perpetual easement granting
25 public access for nonmotorized recreational use, including, but not
26 limited to, walking, hiking, bicycling, and equestrian activities.

27 **Sec. 4.** (1) A taxpayer who encumbers their property with a
28 perpetual recreational trail easement is eligible for an annual property
29 tax exemption equal to ten cents for each square foot of the property
30 encumbered by the easement.

31 (2) If the exemption amount exceeds the taxpayer's property tax

1 liability for the taxable year, the excess amount may not be carried
2 forward to subsequent years.

3 **Sec. 5. (1) To qualify for the property tax exemption:**

4 (a) The easement shall:

5 (i) Be perpetual and recorded with the appropriate county register
6 of deeds;

7 (ii) Provide public access and connect to existing or planned
8 regional trails or significant local attractions, such as parks,
9 waterways, cultural sites, or residential areas; and

10 (iii) Be held by an eligible holder, including nonprofit
11 organizations that demonstrate:

12 (A) A primary mission of promoting public access, health, and
13 wellness through recreational land use;

14 (B) A commitment to environmental conservation and land stewardship;
15 and

16 (C) Capacity to oversee and manage trail easements independently or
17 through partnerships with accredited entities, ensuring compliance with
18 public access goals; and

19 (b) Taxpayers shall submit an application to the Department of
20 Revenue, including:

21 (i) Proof of the recorded easement; and

22 (ii) Certification from the eligible holder confirming compliance
23 with public access and connectivity requirements.

24 (2) Upon verification of the qualification for the property tax
25 exemption, the Department of Revenue shall issue a property tax exemption
26 certificate to the taxpayer.

27 **Sec. 6. The Department of Revenue shall adopt and promulgate rules**
28 **and regulations necessary to carry out the Recreational Trail Easement**
29 **Property Tax Exemption Act. Such rules and regulations shall include:**

30 (1) Clear guidelines for nonprofit organizations to demonstrate
31 their eligibility as holders of recreational trail easements, ensuring

1 alignment with public access and conservation goals;

2 (2) Procedures for certifying the public benefit of qualifying
3 easements, including requirements for connectivity to existing or planned
4 trail systems; and

5 (3) Methods for ensuring compliance with the public purpose outlined
6 in the act.

7 **Sec. 7.** Section 76-214, Revised Statutes Cumulative Supplement,
8 2024, is amended to read:

9 76-214 (1) Except as provided in subsection (4) of this section,
10 every grantee who has a deed to real estate recorded and every purchaser
11 of real estate who has a memorandum of contract or land contract recorded
12 shall, at the time such deed, memorandum of contract, or land contract is
13 presented for recording, file with the register of deeds a completed
14 statement as prescribed by the Tax Commissioner. For all deeds and all
15 memoranda of contract and land contracts recorded on and after January 1,
16 2001, the statement shall not require the social security number of the
17 grantee or purchaser or the federal employer identification number of the
18 grantee or purchaser. This statement may require the recitation of any
19 information contained in the deed, memorandum of contract, or land
20 contract, the total consideration paid, the amount of the total
21 consideration attributable to factors other than the purchase of the real
22 estate itself, and other factors which may influence the transaction. If
23 a death certificate is recorded as provided in subsection (2) of this
24 section, this statement may require a date of death, the name of the
25 decedent, and whether the title is affected as a result of a transfer on
26 death deed, a joint tenancy deed, or the expiration of a life estate or
27 by any other means. This statement shall ask whether the affidavit
28 described in section 76-2,141 is required with respect to the deed,
29 memorandum of contract, or land contract and, if so, whether such
30 affidavit has been completed. This statement shall be signed and filed by
31 the grantee, the purchaser, or his or her authorized agent. The register

1 of deeds shall forward the statement to the county assessor. If the
2 grantee or purchaser fails to furnish the prescribed statement, the
3 register of deeds shall not record the deed, memorandum of contract, or
4 land contract. The register of deeds shall indicate on the statement the
5 book and page or computer system reference where the deed, memorandum of
6 contract, or land contract is recorded and shall immediately forward the
7 statement to the county assessor. The county assessor shall process the
8 statement according to the instructions of the Property Tax Administrator
9 and shall, pursuant to the rules and regulations of the Tax Commissioner,
10 forward the statement to the Tax Commissioner.

11 (2)(a) The statement described in subsection (1) of this section
12 shall be filed at the time that a certified or authenticated copy of the
13 grantor's death certificate is filed if such death certificate is
14 required to be filed under section 76-2,126 and the conveyance of real
15 estate was pursuant to a transfer on death deed.

16 (b) The statement described in subsection (1) of this section shall
17 not be required to be filed at the time that a transfer on death deed is
18 filed or at the time that an instrument of revocation of a transfer on
19 death deed as described in subdivision (a)(1)(B) of section 76-3413 is
20 filed.

21 (3) Any person shall have access to the statements at the office of
22 the Tax Commissioner, county assessor, or register of deeds if the
23 statements are available and have not been disposed of pursuant to the
24 records retention and disposition schedule as approved by the State
25 Records Administrator.

26 (4) The statement described in subsection (1) of this section shall
27 not be required if the document being recorded is an easement or an oil,
28 gas, or mineral lease, or any subsequent assignment of an easement or
29 such lease, except that such statement shall be required for conservation
30 easements and preservation easements as such terms are defined in section
31 76-2,111 and easements used to qualify for the property tax exemption

1 provided by the Recreational Trail Easement Property Tax Exemption Act.

2 **Sec. 8.** Section 77-202, Revised Statutes Cumulative Supplement,
3 2024, is amended to read:

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

6 (a) Property of the state and its governmental subdivisions to the
7 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; and -

9 (f) A portion of the property owned by a taxpayer as provided in the
10 Recreational Trail Easement Property Tax Exemption Act.

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

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

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

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

31 (6) Any personal property exempt pursuant to subsection (2) of

1 section 77-4105 or section 77-5209.02 shall be exempt from the personal
2 property tax.

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

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

7 (9) Any depreciable tangible personal property used directly in the
8 generation of electricity using wind as the fuel source shall be exempt
9 from the property tax levied on depreciable tangible personal property.
10 Any depreciable tangible personal property used directly in the
11 generation of electricity using solar, biomass, or landfill gas as the
12 fuel source shall be exempt from the property tax levied on depreciable
13 tangible personal property if such depreciable tangible personal property
14 was installed on or after January 1, 2016, and has a nameplate capacity
15 of one hundred kilowatts or more. Depreciable tangible personal property
16 used directly in the generation of electricity using wind, solar,
17 biomass, or landfill gas as the fuel source includes, but is not limited
18 to, wind turbines, rotors and blades, towers, solar panels, trackers,
19 generating equipment, transmission components, substations, supporting
20 structures or racks, inverters, and other system components such as
21 wiring, control 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) For tax years prior to tax year 2020, each person who owns
10 property required to be reported to the county assessor under section
11 77-1201 shall be allowed an exemption amount as provided in the Personal
12 Property Tax Relief Act. For tax years prior to tax year 2020, each
13 person who owns property required to be valued by the state as provided
14 in section 77-601, 77-682, 77-801, or 77-1248 shall be allowed a
15 compensating exemption factor as provided in the Personal Property Tax
16 Relief Act.

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

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

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

27 (b) An owner of broadband equipment seeking an exemption under this
28 section shall apply for an exemption to the county assessor on or before
29 December 31 of the year preceding the year for which the exemption is to
30 begin. If the broadband equipment meets the criteria described in this
31 subsection, the county assessor shall approve the application within

1 thirty calendar days after receiving the application. The application
2 shall be on forms prescribed by the Tax Commissioner.

3 (c) For purposes of this subsection:

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

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

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

27 **Sec. 9.** This act becomes operative on January 1, 2026.

28 **Sec. 10.** Original sections 76-214 and 77-202, Revised Statutes
29 Cumulative Supplement, 2024, are repealed.