

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 727

Introduced by Linehan, 39.

Read first time January 18, 2023

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2704.15, Revised Statutes Cumulative Supplement, 2022; to change
- 3 provisions relating to sales and use tax exemptions for purchases by
- 4 the state, schools, and governmental units; to provide an operative
- 5 date; and to repeal the original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2704.15, Revised Statutes Cumulative
2 Supplement, 2022, is amended to read:

3 77-2704.15 (1)(a) Sales and use taxes shall not be imposed on the
4 gross receipts from the sale, lease, or rental of and the storage, use,
5 or other consumption in this state of purchases by the state, including
6 public educational institutions recognized or established under the
7 provisions of Chapter 85, or by any county, township, city, village,
8 rural or suburban fire protection district, city airport authority,
9 county airport authority, joint airport authority, drainage district
10 organized under sections 31-401 to 31-450, sanitary drainage district
11 organized under sections 31-501 to 31-553, land bank created under the
12 Nebraska Municipal Land Bank Act, natural resources district, county
13 agricultural society, elected county fair board, housing agency as
14 defined in section 71-1575 except for purchases for any commercial
15 operation that does not exclusively benefit the residents of an
16 affordable housing project, cemetery created under section 12-101, or
17 joint entity or agency formed by any combination of two or more counties,
18 townships, cities, villages, or other exempt governmental units pursuant
19 to the Interlocal Cooperation Act, the Integrated Solid Waste Management
20 Act, or the Joint Public Agency Act, except for purchases for use in the
21 business of furnishing gas, water, electricity, or heat, or by any
22 irrigation or reclamation district, the irrigation division of any public
23 power and irrigation district, or public schools or learning communities
24 established under Chapter 79.

25 (b) For purposes of this subsection, purchases by the state or by a
26 governmental unit listed in subdivision (a) of this subsection include
27 purchases by a nonprofit corporation under a lease-purchase agreement,
28 financing lease, or other instrument which provides for transfer of title
29 to the property to the state or governmental unit upon payment of all
30 amounts due thereunder. If a nonprofit corporation will be making
31 purchases under a lease-purchase agreement, financing lease, or other

1 instrument as part of a project with a total estimated cost that exceeds
2 the threshold amount, then such purchases shall qualify for an exemption
3 under this section only if the question of proceeding with such project
4 has been submitted at a primary, general, or special election held within
5 the governmental unit that will be a party to the lease-purchase
6 agreement, financing lease, or other instrument and has been approved by
7 the voters of such governmental unit or the governmental unit's
8 expenditure towards the project has been approved by the voters of such
9 governmental unit. For purposes of this subdivision, (i) project means
10 the acquisition of real property or the construction of a public building
11 and (ii) threshold amount means the greater of fifty thousand dollars or
12 six-tenths of one percent of the total actual value of real and personal
13 property of the governmental unit that will be a party to the lease-
14 purchase agreement, financing lease, or other instrument as of the end of
15 the governmental unit's prior fiscal year.

16 (2) The appointment of purchasing agents shall be recognized for the
17 purpose of altering the status of the construction contractor as the
18 ultimate consumer of building materials which are physically annexed to
19 the structure and which subsequently belong to the state or the
20 governmental unit. The appointment of purchasing agents shall be in
21 writing and occur prior to having any building materials annexed to real
22 estate in the construction, improvement, or repair. The contractor who
23 has been appointed as a purchasing agent may apply for a refund of or use
24 as a credit against a future use tax liability the tax paid on inventory
25 items annexed to real estate in the construction, improvement, or repair
26 of a project for the state or a governmental unit.

27 (3) Any governmental unit listed in subsection (1) of this section,
28 except the state, which enters into a contract of construction,
29 improvement, or repair upon property annexed to real estate without first
30 issuing a purchasing agent authorization to a contractor or repairperson
31 prior to the building materials being annexed to real estate in the

1 project may apply to the Tax Commissioner for a refund of any sales and
2 use tax paid by the contractor or repairperson on the building materials
3 physically annexed to real estate in the construction, improvement, or
4 repair.

5 Sec. 2. This act becomes operative on October 1, 2023.

6 Sec. 3. Original section 77-2704.15, Revised Statutes Cumulative
7 Supplement, 2022, is repealed.