

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 232

Introduced by Kolterman, 24.

Read first time January 11, 2017

Committee:

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-202, Revised Statutes Cumulative Supplement, 2016; to provide a
- 3 property tax exemption for property leased to the state or a
- 4 governmental subdivision; to provide an operative date; and to
- 5 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 2016, is amended to read:

3 77-202 (1) The following property shall be exempt from property
4 taxes:

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

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

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

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

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

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

31 (d) Property owned by educational, religious, charitable, or

1 cemetery organizations, or any organization for the exclusive benefit of
2 any such educational, religious, charitable, or cemetery organization,
3 and used exclusively for educational, religious, charitable, or cemetery
4 purposes, when such property is not (i) owned or used for financial gain
5 or profit to either the owner or user, (ii) used for the sale of
6 alcoholic liquors for more than twenty hours per week, or (iii) owned or
7 used by an organization which discriminates in membership or employment
8 based on race, color, or national origin. For purposes of this
9 subdivision, educational organization means (A) 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 or
14 (B) a museum or historical society operated exclusively for the benefit
15 and education of the public. For purposes of this subdivision, charitable
16 organization includes an organization operated exclusively for the
17 purpose of the mental, social, or physical benefit of the public or an
18 indefinite number of persons and a fraternal benefit society organized
19 and licensed under sections 44-1072 to 44-10,109; and

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

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

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

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

31 (5) Business and agricultural inventory shall be exempt from the

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

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

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

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

17 (9) Any depreciable tangible personal property used directly in the
18 generation of electricity using wind as the fuel source shall be exempt
19 from the property tax levied on depreciable tangible personal property.
20 Any depreciable tangible personal property used directly in the
21 generation of electricity using solar, biomass, or landfill gas as the
22 fuel source shall be exempt from the property tax levied on depreciable
23 tangible personal property if such depreciable tangible personal property
24 was installed on or after January 1, 2016, and has a nameplate capacity
25 of one hundred kilowatts or more. Depreciable tangible personal property
26 used directly in the generation of electricity using wind, solar,
27 biomass, or landfill gas as the fuel source includes, but is not limited
28 to, wind turbines, rotors and blades, towers, solar panels, trackers,
29 generating equipment, transmission components, substations, supporting
30 structures or racks, inverters, and other system components such as
31 wiring, control systems, switchgears, and generator step-up transformers.

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

19 (11) For each person who owns property required to be reported to
20 the county assessor under section 77-1201, there shall be allowed an
21 exemption amount as provided in the Personal Property Tax Relief Act. For
22 each person who owns property required to be valued by the state as
23 provided in section 77-601, 77-682, 77-801, or 77-1248, there shall be
24 allowed a compensating exemption factor as provided in the Personal
25 Property Tax Relief Act.

26 Sec. 2. This act becomes operative on January 1, 2018.

27 Sec. 3. Original section 77-202, Revised Statutes Cumulative
28 Supplement, 2016, is repealed.