

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SPECIAL SESSION

LEGISLATIVE BILL 38

Introduced by Kauth, 31.

Read first time July 29, 2024

Committee:

- 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.