

LEGISLATURE OF NEBRASKA  
NINETY-SIXTH LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 1276**

Introduced by Redfield, 12; Bohlke, 33; Coordsen, 32; Quandahl, 31;  
Raikes, 25; Wickersham, 49

Read first time January 18, 2000

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-202.02 and 77-202.04, Reissue Revised Statutes of  
3 Nebraska, and sections 77-202.01 and 77-202.03, Revised  
4 Statutes Supplement, 1999; to change provisions relating  
5 to the granting of property tax exemptions; to harmonize  
6 provisions; to provide an operative date; and to repeal  
7 the original sections.

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

1                   Section 1.           Section 77-202.01, Revised Statutes  
2 Supplement, 1999, is amended to read:

3                   77-202.01. (1) Any organization or society seeking a tax  
4 exemption provided in subdivisions (1)(c) and (d) of section 77-202  
5 for any real or tangible personal property, except real property  
6 used for cemetery purposes, shall apply for exemption to the county  
7 assessor on or before December 31 of the year preceding the year  
8 for which the exemption is sought on forms prescribed by the  
9 Property Tax Administrator. The county assessor shall examine the  
10 application and recommend either taxable or exempt for the real  
11 property or tangible personal property to the county board of  
12 equalization on or before February 1 following. Notice that a list  
13 of the applications from organizations seeking tax exemption,  
14 descriptions of the property, and recommendations of the county  
15 assessor are available in the county assessor's office shall be  
16 published in a newspaper of general circulation in the county at  
17 least ten days prior to consideration of any application by the  
18 county board of equalization.

19                   (2) Any organization or society which fails to file an  
20 exemption application on or before December 31 may apply on or  
21 before June 30 to the county assessor. The organization or society  
22 shall also file in writing a request with the county board of  
23 equalization for a waiver so that the county assessor may consider  
24 the application for exemption. The county board of equalization  
25 shall grant the waiver upon a finding that good cause exists for  
26 the failure to make application on or before December 31. When the  
27 waiver is granted, the county assessor shall examine the  
28 application and recommend either taxable or exempt for the real

1 property or tangible personal property to the county board of  
2 equalization and shall assess a penalty against the property of ten  
3 percent of the tax that would have been assessed had the waiver  
4 been denied or one hundred dollars, whichever is less, for each  
5 calendar month or fraction thereof for which the filing of the  
6 exemption application missed the December 31 deadline. The penalty  
7 shall be collected and distributed in the same manner as a tax on  
8 the property and interest shall be assessed at the rate specified  
9 in section 45-104.01, as such rate may from time to time be  
10 adjusted by the Legislature, from the date the tax would have been  
11 delinquent until paid. The penalty shall also become a lien in the  
12 same manner as a tax pursuant to section 77-203.

13           Sec. 2. Section 77-202.02, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15           77-202.02. The county board of equalization, between  
16 February 1 and June 1 after a hearing on ten days' notice to the  
17 applicant and the publication of notice as provided in section  
18 77-202.01, and after considering the recommendation of the county  
19 assessor and any other information it may obtain from public  
20 testimony, shall grant or withhold tax exemption for the real  
21 property or tangible personal property on the basis of law and of  
22 regulations promulgated by the Property Tax Administrator. The  
23 board shall certify its decision to the applicant, the county  
24 assessor, and the Property Tax Administrator within ten days  
25 thereafter.

26           For applications accepted after approval of a waiver  
27 pursuant to section 77-202.01, the county board of equalization  
28 shall hear and certify its decision on or before August 15.

1                   Sec. 3. Section 77-202.03, Revised Statutes Supplement,  
2 1999, is amended to read:

3                   77-202.03.     (1) A properly granted exemption of real or  
4 tangible personal property, except real property used for cemetery  
5 purposes, provided for in subdivisions (1)(c) and (d) of section  
6 77-202 shall continue for a period of four years if the affidavit  
7 required by subsection (2) of this section is filed when due. The  
8 four-year period shall begin with years evenly divisible by four.

9                   (2) In each intervening year occurring between  
10 application years, the organization or society which filed the  
11 granted exemption application for the real or tangible personal  
12 property, except real property used for cemetery purposes, shall  
13 file an affidavit with the county assessor on or before December 31  
14 of the year preceding the year for which the exemption is sought,  
15 on forms prescribed by the Property Tax Administrator, certifying  
16 that the ownership and use of the exempted property has not changed  
17 during the year. Any organization or society which misses the  
18 December 31 deadline for filing the affidavit may file the  
19 affidavit by June 30. Such filing shall maintain the tax-exempt  
20 status of the property without further action by the county and  
21 regardless of any previous action by the county board to deny the  
22 exemption due to late filing of the affidavit. Upon any such late  
23 filing, the county board shall assess a penalty against the  
24 property of ten percent of the tax that would have been assessed  
25 had the affidavit not been filed or one hundred dollars, whichever  
26 is less, for each calendar month or fraction thereof for which the  
27 filing of the affidavit is late. The penalty shall be collected  
28 and distributed in the same manner as a tax on the property and

1 interest shall be assessed at the rate specified in section  
2 45-104.01, as such rate may from time to time be adjusted by the  
3 Legislature, from the date the tax would have been delinquent until  
4 paid. The penalty shall also become a lien in the same manner as a  
5 tax pursuant to section 77-203.

6 (3)(a) If any organization or society seeks a tax  
7 exemption for any real or tangible personal property acquired on or  
8 after January 1 of any year or converted to exempt use on or after  
9 January 1 of any year, the organization or society shall make  
10 application for exemption on or before August 1 of that year as  
11 provided in section 77-202.01. The procedure for reviewing the  
12 application shall be as in sections 77-202.01 to 77-202.07, except  
13 that the exempt use shall be determined as of the date of  
14 application and the review by the county board of equalization  
15 shall be completed by August 15.

16 (b) If an organization as described in subdivision (1)(c)  
17 or (d) of section 77-202 purchases, between August 1 and the levy  
18 date, property that has been granted tax exemption and the property  
19 continues to be qualified for a property tax exemption, the  
20 purchaser shall on or before December 1 make application for  
21 exemption as provided in section 77-202.01. The procedure for  
22 reviewing the application shall be as in sections 77-202.01 to  
23 77-202.07, and the review by the county board of equalization shall  
24 be completed by December 15.

25 (4) In any year, the county assessor or the county board  
26 of equalization may cause a review of any exemption to determine  
27 whether the exemption is proper. Such a review may be taken even  
28 if the ownership or use of the property has not changed from the

1 date of the allowance of the exemption. The review shall follow  
2 the procedure set out in section 77-202.02, except that the  
3 published notice shall state that the list provided in the county  
4 assessor's office only includes those properties being reviewed.  
5 If it is determined that a change in an exemption is warranted, the  
6 procedure for hearing set out in section 77-202.02 shall be  
7 followed. If an exemption is denied, the county board of  
8 equalization shall place the property on the tax rolls retroactive  
9 to January 1 of that year if on the date of the decision of the  
10 county board of equalization the property no longer qualifies for  
11 an exemption.

12 The county board of equalization shall give notice of the  
13 assessed value of the real property in the same manner as outlined  
14 in section 77-1507, and the procedures for filing a protest shall  
15 be the same as those in section 77-1502.

16 When personal property which was exempt becomes taxable  
17 because of lost exemption status, the owner or his or her agent has  
18 thirty days after the date of denial to file a personal property  
19 return with the county assessor. Upon the expiration of the thirty  
20 days for filing a personal property return pursuant to this  
21 subsection, the county assessor shall proceed to list and value the  
22 personal property and apply the penalty pursuant to section  
23 77-1233.04.

24 (5) During the month of September of each year, the  
25 county board of equalization shall cause to be published in a paper  
26 of general circulation in the county a list of all real estate in  
27 the county exempt from taxation for that year pursuant to  
28 subdivisions (1)(c) and (d) of section 77-202. Such list shall be

1 grouped into categories as provided by the Property Tax  
2 Administrator. A copy of the list and proof of publication shall  
3 be forwarded to the Property Tax Administrator.

4 Sec. 4. Section 77-202.04, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 77-202.04. Persons, corporations, or organizations  
7 denied exemption from taxation for real or tangible personal  
8 property by a county board of equalization may appeal to the Tax  
9 Equalization and Review Commission. The county assessor or any  
10 individual residing in the county may appeal a grant of exemption  
11 from taxation of real or personal property or retention of a real  
12 or personal property tax exemption considered for a change in  
13 exempt status under section 77-202.03 by a county board of  
14 equalization to the Tax Equalization and Review Commission. The  
15 Property Tax Administrator may in his or her discretion intervene  
16 in any such appeal.

17 In cases of an appeal from a decision of the county board  
18 of equalization granting an exemption by a resident of the county,  
19 costs and a reasonable attorney's fee for the prevailing party  
20 shall be taxed against the other party. The court may require a  
21 bond of any party in such amount as deemed sufficient to secure  
22 payment of costs and attorney's fees as a condition for maintaining  
23 the appeal. No costs or fees may be taxed against, nor any bond  
24 required of the county board of equalization, the county assessor,  
25 or the Tax Equalization and Review Commission.

26 Sec. 5. This act becomes operative on January 1, 2001.

27 Sec. 6. Original sections 77-202.02 and 77-202.04,  
28 Reissue Revised Statutes of Nebraska, and sections 77-202.01 and

- 1 77-202.03, Revised Statutes Supplement, 1999, are repealed.