

LEGISLATURE OF NEBRASKA  
NINETY-NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 610**

Introduced by Synowiecki, 7; Bourne, 8; Chambers, 11; Flood, 19;  
Howard, 9; Kruse, 13; Preister, 5; Smith, 48

Read first time January 18, 2005

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-2701, 77-2701.04, and 77-2704.55, Revised Statutes  
3 Supplement, 2004; to exempt certain contractor labor and  
4 building materials, supplies, and equipment from sales  
5 tax; to harmonize provisions; to provide an operative  
6 date; and to repeal the original sections.  
7 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 77-2701, Revised Statutes Supplement,  
2 2004, is amended to read:

3                   77-2701. Sections 77-2701 to 77-27,135.01 and 77-27,222  
4 and section 4 of this act shall be known and may be cited as the  
5 Nebraska Revenue Act of 1967.

6                   Sec. 2. Section 77-2701.04, Revised Statutes Supplement,  
7 2004, is amended to read:

8                   77-2701.04. For purposes of sections 77-2701.04 to  
9 77-2713 and section 4 of this act, unless the context otherwise  
10 requires, the definitions found in sections 77-2701.05 to  
11 77-2701.45 shall be used.

12                   Sec. 3. Section 77-2704.55, Revised Statutes Supplement,  
13 2004, is amended to read:

14                   77-2704.55. (1) Sales and use taxes shall not be imposed  
15 on the labor of a contractor purchased in connection with the  
16 following types of construction projects:

17                   (a) The first or original construction of a structure;

18                   (b) The addition of an entire room or floor to any  
19 existing building;

20                   (c) The completion of an unfinished portion of an  
21 existing structure;

22                   (d) The restoration, reconstruction, or replacement of a  
23 structure damaged or destroyed by fire, flood, tornado, lightning,  
24 explosion, ice storm, or natural disaster;

25                   (e) The construction, repair, or annexation of any  
26 structure used for the generation, transmission, or distribution of  
27 electricity; ~~ex~~

28                   (f) The major renovation of an existing building or a

1 unit of an existing building described in subdivision (2)(c)(ii) of  
2 this section. For a project on a building other than an existing  
3 dwelling designed for occupancy by one family or a duplex designed  
4 for occupancy by two families, the exemption granted in this  
5 subdivision shall be conditioned upon the taxpayer seeking approval  
6 from the Department of Revenue that the project, if substantially  
7 completed according to designs, plans, specifications, or other  
8 materials submitted with the application to the department, meets  
9 the requirements for a major renovation under subdivision  
10 (2)(c)(ii) of this section and the construction services will be  
11 exempt from tax. For a project on an existing dwelling designed  
12 for occupancy by one family or a duplex designed for occupancy by  
13 two families, the exemption may be granted either upon approval by  
14 the department that the project, if substantially completed  
15 according to plans submitted with the application to the  
16 department, meets the requirements for a major renovation under  
17 subdivision (2)(c)(ii) of this section or notice from the  
18 contractor to the department of the nature of the project and an  
19 explanation of why the renovation will qualify for the exemption.  
20 Approval may be granted in accordance with the procedures set forth  
21 in subsection (4) of this section; or

22 (g) The restoration, reconstruction, renovation, or  
23 repair of an existing building located within any designated  
24 enterprise zone pursuant to 42 U.S.C. 11501 or the Enterprise Zone  
25 Act.

26 (2) For purposes of this section:

27 (a) Building means any freestanding structure annexed to  
28 land, enclosed within a roof and exterior walls, regardless of

1 whether enclosed on all sides;

2 (b) Fixture means a piece of equipment that must be  
3 annexed to the building or structure in order to properly function,  
4 yet remains identifiable as a separate item;

5 (c) Major renovation of an existing building or a unit of  
6 an existing building means a single renovation project that:

7 (i) Increases the market value of the building or unit by  
8 at least one hundred percent; or

9 (ii) Entails the renovation of no less than seventy-five  
10 percent of the square feet of the building or unit;

11 (d) Renovation means the rehabilitation, replacement, or  
12 reconfiguration of walls or fixtures. Mere replacement of floor  
13 coverings does not constitute renovation for purposes of  
14 subdivision (1)(f) of this section;

15 (e) Structure means any construction composed of building  
16 materials arranged and fitted together in some way. Structure  
17 includes, but is not limited to, streets and roadways, street  
18 lighting, and sewers and waterlines; and

19 (f) Unit means a physical portion of a building  
20 designated for separate ownership, rental, or occupancy.

21 (3) A taxpayer shall be entitled to a refund of any sales  
22 tax paid to a contractor on the gross receipts from the labor of a  
23 contractor for any major renovation described in subdivision  
24 (2)(c)(i) of this section or, if prior approval of the renovation  
25 pursuant to this section has not been obtained, for any major  
26 renovation described in subdivision (2)(c)(ii) of this section.  
27 The refund granted in this section shall be conditioned upon filing  
28 a claim for the refund on a form developed by the Tax Commissioner.

1 The requirements imposed by the Tax Commissioner shall be related  
2 to ensuring that the project qualifies for the refund. Any  
3 information received pursuant to the requirements of this  
4 subsection may be disclosed to any tax official in this state. Any  
5 taxpayer who provides false information on the forms required by  
6 the Tax Commissioner for purposes of this subsection shall be  
7 subject to the penalties provided in subsection (8) of section  
8 77-2705.

9 (4) (a) A taxpayer may apply to the Tax Commissioner for  
10 approval that a proposed construction project meets the  
11 requirements for a major renovation described in subdivision  
12 (2) (c) (ii) of this section.

13 (b) The approval granted in this section shall be  
14 conditioned upon filing an application on a form developed by the  
15 Tax Commissioner with an application fee of five hundred dollars.  
16 The application fee shall be remitted to the State Treasurer for  
17 credit to the Department of Revenue Contractor Enforcement Fund.  
18 The application shall be supported by designs, plans,  
19 specifications, or other materials, signed by a licensed architect  
20 or engineer, that indicate the extent of the renovation, the work  
21 that is planned to be performed, and the square footage of the  
22 floor space that is to be renovated. Any requirements imposed by  
23 the Tax Commissioner shall be related to ensuring that the project  
24 qualifies for the exemption so long as the project is completed in  
25 substantial conformity with the designs, plans, specifications, or  
26 other materials submitted with the application.

27 (c) The Tax Commissioner shall approve or deny the  
28 application within sixty business days after receiving the

1 application. Within sixty days after the completion of the  
2 renovation, a licensed architect or engineer shall certify to the  
3 Tax Commissioner that the renovation was completed in substantial  
4 conformity with the designs, plans, specifications, or other  
5 materials submitted with the application or shall amend the  
6 original application to describe the project as actually completed.

7 (d) Any information received pursuant to the requirements  
8 of this subsection may be disclosed to any tax official in this  
9 state. Any person who provides false information on the forms or  
10 plans, specifications, and materials required by the Tax  
11 Commissioner for purposes of this subsection shall be subject to  
12 the penalties provided in subsection (8) of section 77-2705.

13 (5) The provisions of this section shall not excuse any  
14 person from the obligation to collect sales tax on retail sales of  
15 property not annexed to real estate or from the obligation to pay  
16 the sales tax or remit the use tax on tools, services, and other  
17 materials consumed that are not annexed to real estate.

18 (6) The Department of Revenue Contractor Enforcement Fund  
19 is created. Any money in the fund available for investment shall  
20 be invested by the state investment officer pursuant to the  
21 Nebraska Capital Expansion Act and the Nebraska State Funds  
22 Investment Act.

23 Sec. 4. (1) Sales and use tax shall not be imposed on  
24 the gross receipts from the sale, lease, or rental of building  
25 materials, supplies, and equipment in connection with the  
26 restoration, reconstruction, renovation, or repair of an existing  
27 building located within any designated enterprise zone pursuant to  
28 42 U.S.C. 11501 or the Enterprise Zone Act. For purposes of this

1 section, building has the same meaning as in section 77-2704.55.

2 (2) The exemption granted in this section shall be  
3 conditioned upon filing requirements for the exemption as imposed  
4 by the Tax Commissioner. The requirements imposed by the Tax  
5 Commissioner shall be related to ensuring that the property  
6 purchased qualifies for the exemption. Any information received  
7 pursuant to the requirements of this section may be disclosed to  
8 any tax official in this state. Any taxpayer who provides false  
9 information on the forms required by the Tax Commissioner for  
10 purposes of this section shall be subject to the penalties provided  
11 in subsection (8) of section 77-2705.

12 Sec. 5. This act becomes operative on October 1, 2005.

13 Sec. 6. Original sections 77-2701, 77-2701.04, and  
14 77-2704.55, Revised Statutes Supplement, 2004, are repealed.