

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 696

Introduced by Janssen, 15; Combs, 32; Mines, 18

Read first time January 19, 2005

Committee: Revenue

A BILL

1 FOR AN ACT relating to the Employment and Investment Growth Act; to
2 amend section 77-4106, Reissue Revised Statutes of
3 Nebraska; to provide for timing of refunds of certain
4 sales and use taxes; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-4106, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-4106. (1) (a) The credits prescribed in section
4 77-4105 shall be established by filing the forms required by the
5 Tax Commissioner with the income tax return for the year. The
6 credits may be used after any other nonrefundable credits to reduce
7 the taxpayer's income tax liability imposed by sections 77-2714 to
8 77-27,135. The credits may be used to obtain a refund of sales and
9 use taxes under the Nebraska Revenue Act of 1967, the Local Option
10 Revenue Act, and sections 13-319, 13-324, and 13-2813 which are not
11 otherwise refundable that are paid on purchases, including rentals,
12 for use at the project.

13 (b) The credits may be used as allowed in subdivision (a)
14 of this subsection and shall be applied in the order in which they
15 were first allowed. Any decision on how part of the credit is
16 applied shall not limit how the remaining credit could be applied
17 under this section.

18 (c) The credit may be carried over until fully utilized,
19 except that such credit may not be carried over more than eight
20 years after the end of the entitlement period.

21 (2) (a) No refund claims shall be filed until after the
22 required levels of employment and investment have been met.

23 (b) Refund claims shall be filed no more than once each
24 quarter for refunds under the Employment and Investment Growth Act,
25 except that any claim for a refund in excess of twenty-five
26 thousand dollars may be filed at any time.

27 (c) Any refund claim for sales and use tax on materials
28 incorporated into real estate as a part of the project shall be

1 filed by and the refund paid to the owner of the improvement to
2 real estate. A refund claim for such materials purchased by a
3 purchasing agent shall include a copy of the purchasing agent
4 appointment, the contract price, and a certification by the
5 contractor or repairperson of the percentage of the materials
6 incorporated into the project on which sales and use taxes were
7 paid to Nebraska after appointment as purchasing agent.

8 (d) All refund claims shall be filed, processed, and
9 allowed as any other claim under section 77-2708, except that the
10 amounts allowed to be refunded under the Employment and Investment
11 Growth Act shall be deemed to be overpayments and shall be refunded
12 notwithstanding any limitation in subdivision (2)(a) of section
13 77-2708. The refund may be allowed if the claim is filed within
14 three calendar years from the end of the year the required levels
15 of employment and investment are met or within the period set forth
16 in section 77-2708.

17 (e) If a claim for a refund of sales and use taxes under
18 the Local Option Revenue Act or sections 13-319, 13-324, and
19 13-2813 of more than twenty-five thousand dollars is filed by June
20 15 of a given year, the refund shall be made on or after November
21 15 of the same year. If such a claim is filed on or after June 16
22 of a given year, the refund shall not be made until on or after
23 November 15 of the following year. The Tax Commissioner shall
24 notify the affected city, village, county, or municipal county of
25 the amount of refund claims of sales and use taxes under the Local
26 Option Revenue Act or sections 13-319, 13-324, and 13-2813 that are
27 in excess of twenty-five thousand dollars on or before July 1 of
28 the year before the claims will be paid under this section.

1 (f) Interest shall not be allowed on any sales and use
2 taxes refunded under the Employment and Investment Growth Act.

3 (3) The appointment of purchasing agents shall be
4 recognized for the purpose of changing the status of a contractor
5 or repairperson as the ultimate consumer of tangible personal
6 property purchased after the date of the appointment which is
7 physically incorporated into the project and becomes the property
8 of the owner of the improvement to real estate. The purchasing
9 agent shall be jointly liable for the payment of the sales and use
10 tax on the purchases with the owner of the improvement to real
11 estate.

12 Sec. 2. Original section 77-4106, Reissue Revised
13 Statutes of Nebraska, is repealed.