

AMENDMENTS TO LB 367

(Amendments to Standing Committee amendments, AM911)

Introduced by Revenue

1 1. Strike the original sections and insert the following
2 new sections:

3 Sec. 6. Section 77-2101, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-2101 For purposes of sections 77-2101 to 77-2116:

6 (1) Estate tax means the tax due to the state under
7 section 77-2101.01;

8 (2) Generation-skipping transfer tax means the tax due to
9 the state under section 77-2101.02;

10 (3) Nebraska taxable estate means the federal taxable
11 estate, as determined under Chapter 11 of the Internal Revenue
12 Code, minus one million dollars. For decedents dying on or after
13 January 1, 2008, the Nebraska taxable estate means the federal
14 taxable estate, as determined under Chapter 11 of the Internal
15 Revenue Code, minus two million dollars;

16 (4) Nebraska taxable transfer means the federal taxable
17 transfer, as determined under Chapter 13 of the Internal Revenue
18 Code, minus one million dollars; and

19 (5) Transfer tax means the estate tax and
20 generation-skipping transfer tax.

21 Sec. 7. Section 77-2701, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

1 77-2701 Sections 77-2701 to 77-27,135.01, ~~77-27,222,~~ and
2 77-27,228 to 77-27,235 and section 9 of this act shall be known and
3 may be cited as the Nebraska Revenue Act of 1967.

4 Sec. 8. Section 77-2701.04, Revised Statutes Cumulative
5 Supplement, 2006, is amended to read:

6 77-2701.04 For purposes of sections 77-2701.04 to 77-2713
7 and section 9 of this act, unless the context otherwise requires,
8 the definitions found in sections 77-2701.05 to 77-2701.47 shall be
9 used.

10 Sec. 9. Sales and use tax shall not be imposed on
11 the gross receipts from the sale, lease, or rental of personal
12 property for use in a community-based wind energy project. This
13 exemption shall be conditioned upon filing requirements for the
14 exemption as imposed by the Tax Commissioner. The requirements
15 imposed by the Tax Commissioner shall be related to ensuring that
16 the property purchased qualifies for the exemption. For purposes of
17 this section:

18 (1) Community-based wind energy project means a project
19 that consists of more than two wind turbines that has no single
20 qualified owner owning more than fifteen percent of the project
21 with at least thirty-three percent of the power purchase agreement
22 payments flowing to the qualified owner or local community or
23 that consist of one or two wind turbines owned by one or more
24 qualifying owners with at least thirty-three percent of the power
25 purchase agreement payments flowing to the qualified owner or local
26 community, which project has a resolution of support adopted by
27 the county board of each county in which the project is to be

1 located or by the tribal council for a project located within the
2 boundaries of an Indian reservation;

3 (2) Qualified owner in a community-based energy
4 development project means:

5 (a) A Nebraska resident;

6 (b) A limited liability company that is organized under
7 the laws of this state and that is made up entirely of members who
8 are Nebraska residents;

9 (c) A Nebraska nonprofit organization organized under the
10 Nebraska Nonprofit Corporation Act;

11 (d) A Nebraska cooperative association other than a rural
12 electric cooperative association or generation and transmission
13 cooperative;

14 (e) A political subdivision or unit of local government,
15 including, but not limited to, a school district or public or
16 private postsecondary educational institution, or any other local
17 or regional governmental organization such as a board, commission,
18 or association, but excluding a municipal electric utility or
19 municipal power agency; or

20 (f) A tribal council; and

21 (3) Wind energy project includes any materials used to
22 manufacture, install, construct, repair or replace a device, such
23 as a wind charger, wind mill or wind turbine, that converts wind
24 energy to a form of usable energy.

25 Sec. 10. Section 77-2701.10, Revised Statutes Cumulative
26 Supplement, 2006, is amended to read:

27 77-2701.10 Contractor or repairperson means any person

1 who performs any repair services upon property annexed to, or
2 who annexes building materials to, real estate, including leased
3 property, and who, as a necessary and incidental part of performing
4 such services, annexes building materials to the real estate being
5 so repaired or annexed or arranges for such annexation. Contractor
6 or repairperson does not include any person who incorporates
7 live plants into real estate except when such incorporation is
8 incidental to the transfer of an improvement upon real estate or
9 the real estate. The contractor or repairperson not electing to
10 be taxed as a retailer is considered to be the consumer of such
11 building materials furnished by him or her and annexed to the real
12 estate being so repaired or annexed for all the purposes of the
13 Nebraska Revenue Act of 1967. The contractor or repairperson:

14 (1) Shall be permitted to make an election that he or she
15 will be taxed as a retailer in which case he or she shall not be
16 considered the final consumer of building materials annexed to real
17 estate;

18 (2) Shall be permitted to make an election that he or she
19 will be taxed as the consumer of building materials annexed to real
20 estate, will pay the sales tax or remit the use tax at the time of
21 purchase, and will maintain a tax-paid inventory; or

22 (3) Shall be permitted to make an election that he or
23 she will be taxed as the consumer of building materials annexed
24 to real estate and may issue a resale certificate when purchasing
25 building materials that will be annexed to real estate. Such person
26 shall then remit the appropriate use tax on any building materials
27 when withdrawn from inventory for the purpose of being annexed to

1 real estate at the rate in effect at the time and place of the
2 withdrawal from inventory.

3 ~~The contractor shall collect and remit the tax on his or~~
4 ~~her gross receipts for labor in performing construction services as~~
5 ~~payments are received except as provided in section 77-2704.55.~~

6 The provisions of this section shall not excuse any
7 person from the obligation to collect sales tax on retail sales of
8 property not annexed to real estate or from the obligation to pay
9 the sales tax or remit the use tax on tools, services, and other
10 materials consumed that are not annexed to real estate.

11 The Department of Revenue shall not prescribe any
12 requirements of Nebraska sales revenue, percentage or otherwise,
13 restricting any person's election. Any change in an election shall
14 require prior approval by the Tax Commissioner.

15 Any change in the election shall, if filed on or prior to
16 the fifteenth of the month, become effective at the beginning of
17 the following month or, if filed after the fifteenth of the month,
18 become effective on the first day of the next succeeding month. Any
19 person who changes his or her election and becomes a contractor
20 or repairperson shall pay the tax on all building materials in
21 inventory which may be annexed to real estate at the time of making
22 the change in election except when such contractor or repairperson
23 elects to purchase inventory with a resale certificate. Any person
24 who changes his or her election and becomes a retailer shall not be
25 entitled to a refund but shall receive a credit for the tax paid on
26 building materials in inventory at the time the building materials
27 are sold. The credit shall be applied against the tax collected on

1 sales of such building materials.

2 Any contractor or repairperson who has not completed and
3 filed an election as required in this section within three months
4 after beginning to operate as a contractor or repairperson shall be
5 considered a retailer for all periods until an election has been
6 made.

7 Sec. 11. Section 77-2701.16, Revised Statutes Cumulative
8 Supplement, 2006, is amended to read:

9 77-2701.16 (1) Gross receipts shall mean the total amount
10 of the sale or lease or rental price, as the case may be, of
11 the retail sales of retailers valued in money whether received in
12 money or otherwise, without any deduction on account of any of the
13 following:

14 (a) The cost of property sold. In accordance with rules
15 and regulations adopted and promulgated by the Tax Commissioner, a
16 deduction may be taken if the retailer has purchased property for
17 some purpose other than resale, has reimbursed his or her vendor
18 for tax which the vendor is required to pay to the state or has
19 paid the use tax with respect to the property, and has resold
20 the property prior to making any use of the property other than
21 retention, demonstration, or display while holding it for sale in
22 the regular course of business. If such a deduction is taken by the
23 retailer, no refund or credit will be allowed to his or her vendor
24 with respect to the sale of the property;

25 (b) The cost of the materials used, labor or service
26 costs, interest paid, losses, or any other expense;

27 (c) The cost of transportation of the property;

1 (d) The amount of any excise or property tax levied
2 against the property except as otherwise provided in the Nebraska
3 Revenue Act of 1967; or

4 (e) The amount charged for warranties, guarantees, or
5 maintenance agreements.

6 (2) Gross receipts of every person engaged as a public
7 utility specified in this subsection or as a community antenna
8 television service operator or any person involved in connecting
9 and installing services defined in subdivision (2)(a), (b), or (d)
10 of this section shall mean:

11 (a) In the furnishing of telephone communication service,
12 other than mobile telecommunications service as described in
13 section 77-2706.02, the gross income received from furnishing local
14 exchange telephone service and intrastate message toll telephone
15 service. In the furnishing of mobile telecommunications service
16 as described in section 77-2706.02, the gross income received
17 from furnishing mobile telecommunications service that originates
18 and terminates in the same state to a customer with a place
19 of primary use in Nebraska. Gross receipts shall not mean (i)
20 the gross income, including division of revenue, settlements, or
21 carrier access charges received on or after January 1, 1984, from
22 the sale of a telephone communication service to a communication
23 service provider for purposes of furnishing telephone communication
24 service or (ii) the gross income attributable to services rendered
25 using a prepaid telephone calling arrangement. For purposes of
26 this subdivision, a prepaid telephone calling arrangement shall
27 mean the right to exclusively purchase telecommunications service

1 that is paid for in advance that enables the origination of calls
2 using an access number or authorization code, whether manually or
3 electronically dialed;

4 (b) In the furnishing of telegraph service, the gross
5 income received from the furnishing of intrastate telegraph
6 services;

7 (c) In the furnishing of gas, electricity, sewer, and
8 water service except water used for irrigation of agricultural
9 lands and manufacturing purposes, the gross income received from
10 the furnishing of such services upon billings or statements
11 rendered to consumers for such utility services; and

12 (d) In the furnishing of community antenna television
13 service, the gross income received from the furnishing of such
14 community antenna television service as regulated under sections
15 18-2201 to 18-2205 or 23-383 to 23-388.

16 Gross receipts shall also mean gross income received from
17 the provision, installation, construction, servicing, or removal of
18 property used in conjunction with the furnishing, installing, or
19 connecting of any public utility services specified in subdivision
20 (2)(a) or (b) of this section or community antenna television
21 service specified in subdivision (2)(d) of this section. Gross
22 receipts shall not mean gross income received from telephone
23 directory advertising.

24 (3) Gross receipts of every person engaged in selling,
25 leasing, or otherwise providing intellectual or entertainment
26 property shall mean:

27 (a) In the furnishing of computer software, the gross

1 income received, including the charges for coding, punching, or
2 otherwise producing computer software and the charges for the
3 tapes, disks, punched cards, or other properties furnished by the
4 seller; and

5 (b) In the furnishing of videotapes, movie film,
6 satellite programming, satellite programming service, and satellite
7 television signal descrambling or decoding devices, the gross
8 income received from the license, franchise, or other method
9 establishing the charge except the gross income received from
10 videotape and film rentals, satellite programming, and satellite
11 programming service when the sales tax or the admission tax is
12 charged under the Nebraska Revenue Act of 1967 and except as
13 provided in section 77-2704.39.

14 (4) Gross receipts for providing a service shall mean:

15 (a) The gross income received for building cleaning and
16 maintenance, pest control, and security;

17 (b) The gross income received for motor vehicle washing,
18 waxing, towing, and painting;

19 (c) The gross income received for computer software
20 training;

21 (d) The gross income received for installing and applying
22 tangible personal property if the sale of the property is subject
23 to tax;

24 (e) The gross income received for labor by a contractor
25 except as provided in section 77-2704.55;

26 (f) The gross income received for services of
27 recreational vehicle parks;

1 (g) The gross income received for labor for repair or
2 maintenance services performed with regard to tangible personal
3 property the sale of which would be subject to sales and use
4 taxes, excluding motor vehicles, except as otherwise provided in
5 subdivision (2)(f) of section 77-2702.13 or section 77-2704.26;

6 (h) The gross income received for animal specialty
7 services except (i) veterinary services and (ii) specialty services
8 performed on livestock as defined in section 54-183; and

9 (i) The gross income received for detective services.

10 (5) Gross receipts shall not include any of the
11 following:

12 (a) Cash discounts allowed and taken on sales;

13 (b) The amount of any rebate granted by a motor vehicle
14 or motorboat manufacturer or dealer at the time of sale of the
15 motor vehicle or motorboat, which rebate functions as a discount
16 from the sales price of the motor vehicle or motorboat;

17 (c) Sales price of property or services returned or
18 rejected by customers when the full sales price is refunded either
19 in cash or credit;

20 (d) The amount charged for finance charges, carrying
21 charges, service charges, or interest from credit extended on sales
22 of property or services under contracts providing for deferred
23 payments of the purchase price if such charges are not used as a
24 means of avoiding imposition of the tax upon the actual sales price
25 of the property or services;

26 (e) The value of property taken by a seller in trade as
27 all or a part of the consideration for a sale of property of any

1 kind or nature;

2 (f) The value of a motor vehicle or motorboat taken by
3 any person in trade as all or a part of the consideration for a
4 sale of another motor vehicle or motorboat;

5 (g) Receipts from conditional sale contracts, installment
6 sale contracts, rentals, and leases executed in writing prior to
7 June 1, 1967, and with delivery of the property prior to June
8 1, 1967, if such conditional sale contracts, installment sale
9 contracts, rentals, or leases are for a fixed price and are not
10 subject to negotiation or alteration; or

11 (h) Except as provided in subsection (2) of this section,
12 until October 1, 2002, the amount charged for labor or services
13 rendered in installing or applying the property sold if such amount
14 is separately stated and such separate statement is not used as a
15 means of avoiding imposition of the tax upon the actual sales price
16 of the property.

17 (6) Subsections (1) through (6) of this section terminate
18 on January 1, 2004.

19 (7) Gross receipts means the total amount of the sale or
20 lease or rental price, as the case may be, of the retail sales of
21 retailers.

22 (8) Gross receipts of every person engaged as a public
23 utility specified in this subsection or as a community antenna
24 television service operator or any person involved in connecting
25 and installing services defined in subdivision (8)(a), (b), or (d)
26 of this section means:

27 (a)(i) In the furnishing of telephone communication

1 service, other than mobile telecommunications service as described
2 in section 77-2703.04, the gross income received from furnishing
3 local exchange telephone service and intrastate message toll
4 telephone service; and

5 (ii) In the furnishing of mobile telecommunications
6 service as described in section 77-2703.04, the gross income
7 received from furnishing mobile telecommunications service that
8 originates and terminates in the same state to a customer with a
9 place of primary use in Nebraska;

10 (b) In the furnishing of telegraph service, the gross
11 income received from the furnishing of intrastate telegraph
12 services;

13 (c) In the furnishing of gas, electricity, sewer, and
14 water service, the gross income received from the furnishing of
15 such services upon billings or statements rendered to consumers for
16 such utility services;

17 (d) In the furnishing of community antenna television
18 service, the gross income received from the furnishing of such
19 community antenna television service as regulated under sections
20 18-2201 to 18-2205 or 23-383 to 23-388; and

21 (e) The gross income received from the provision,
22 installation, construction, servicing, or removal of property used
23 in conjunction with the furnishing, installing, or connecting of
24 any public utility services specified in subdivision (8)(a) or (b)
25 of this section or community antenna television service specified
26 in subdivision (8)(d) of this section, ~~which shall be considered~~
27 ~~construction services beginning October 1, 2003. Except except when~~

1 acting as a subcontractor for a public utility, this subdivision
2 does not apply to the gross income received by a contractor
3 electing to be treated as a consumer of building materials under
4 subdivision (2) or (3) of section 77-2701.10 for any such services
5 performed on the customer's side of the utility demarcation point,
6 ~~prior to October 1, 2003.~~

7 (9) Gross receipts of every person engaged in selling,
8 leasing, or otherwise providing intellectual or entertainment
9 property means:

10 (a) In the furnishing of computer software, the gross
11 income received, including the charges for coding, punching, or
12 otherwise producing any computer software and the charges for the
13 tapes, disks, punched cards, or other properties furnished by the
14 seller; and

15 (b) In the furnishing of videotapes, movie film,
16 satellite programming, satellite programming service, and satellite
17 television signal descrambling or decoding devices, the gross
18 income received from the license, franchise, or other method
19 establishing the charge.

20 (10) Gross receipts for providing a service means:

21 (a) The gross income received for building cleaning and
22 maintenance, pest control, and security;

23 (b) The gross income received for motor vehicle washing,
24 waxing, towing, and painting;

25 (c) The gross income received for computer software
26 training;

27 (d) The gross income received for installing and applying

1 tangible personal property if the sale of the property is subject
2 to tax;

3 ~~(e)~~ The gross receipts received for labor by a contractor
4 electing to be treated as a consumer of building materials under
5 subdivision ~~(2)~~ or ~~(3)~~ of section 77-2701.10 except as provided
6 in section 77-2704.55. For purposes of this subdivision, the gross
7 receipts received for labor shall be sixty percent of the sales
8 price for building materials and construction services less an
9 allowance for sales tax paid on building materials. The allowance
10 for sales tax paid on building materials shall equal the sales tax
11 rate in effect at the time payment is received at the location of
12 the project times forty percent of the sales price for building
13 materials and construction services;

14 ~~(f)~~ (e) The gross income received for services of
15 recreational vehicle parks;

16 ~~(g)~~ (f) The gross income received for labor for repair
17 or maintenance services performed with regard to tangible personal
18 property the sale of which would be subject to sales and use taxes,
19 excluding motor vehicles, except as otherwise provided in section
20 77-2704.26 or 77-2704.50;

21 ~~(h)~~ (g) The gross income received for animal specialty
22 services except (i) veterinary services and (ii) specialty services
23 performed on livestock as defined in section 54-183; and

24 ~~(i)~~ (h) The gross income received for detective services.

25 (11) Gross receipts includes the sale of admissions which
26 means the right or privilege to have access to or to use a place
27 or location. An admission includes a membership that allows access

1 to or use of a place or location, but which membership does not
2 include the right to hold office, vote, or change the policies of
3 the organization. When an admission to an activity or a membership
4 constituting an admission pursuant to this subsection is combined
5 with the solicitation of a contribution, the portion or the amount
6 charged representing the fair market price of the admission shall
7 be considered a retail sale subject to the tax imposed by section
8 77-2703. The organization conducting the activity shall determine
9 the amount properly attributable to the purchase of the privilege,
10 benefit, or other consideration in advance, and such amount shall
11 be clearly indicated on any ticket, receipt, or other evidence
12 issued in connection with the payment.

13 (12) Gross receipts includes the sale of live plants
14 incorporated into real estate except when such incorporation is
15 incidental to the transfer of an improvement upon real estate or
16 the real estate.

17 (13) Gross receipts includes the sale of any building
18 materials annexed to real estate ~~and any construction services~~ by a
19 person electing to be taxed as a retailer pursuant to subdivision
20 (1) of section 77-2701.10.

21 (14) Gross receipts includes the sale of prepaid
22 telephone calling arrangements and the recharge of prepaid
23 telephone calling arrangements. If the sale or recharge of a
24 prepaid telephone calling arrangement does not take place at
25 the vendor's place of business, the sale or recharge shall be
26 conclusively determined to take place at the customer's shipping
27 address or, if there is no item shipped, at the customer's

1 billing address. For purposes of this subsection, a prepaid
2 telephone calling arrangement means the right to exclusively
3 purchase telecommunications services that are paid for in advance
4 that enables the origination of calls using an access number or
5 authorization code, whether manually or electronically dialed.

6 (15) Gross receipts does not include:

7 (a) The amount of any rebate granted by a motor vehicle
8 or motorboat manufacturer or dealer at the time of sale of the
9 motor vehicle or motorboat, which rebate functions as a discount
10 from the sales price of the motor vehicle or motorboat; or

11 (b) The price of property or services returned or
12 rejected by customers when the full sales price is refunded
13 either in cash or credit.

14 (16) Subsections (7) through (15) of this section become
15 operative on January 1, 2004.

16 (17) The Tax Commissioner shall hold a hearing on rules
17 and regulations to carry out the changes made to this section by
18 Laws 2003, LB 759. It is the intent of the Legislature that the Tax
19 Commissioner adopt and promulgate rules and regulations to carry
20 out such changes.

21 Sec. 12. Section 77-2701.34, Revised Statutes Cumulative
22 Supplement, 2006, is amended to read:

23 77-2701.34 Sale for resale means a sale of property or
24 provision of a service to any purchaser who is purchasing such
25 property or service for the purpose of reselling it in the normal
26 course of his or her business, either in the form or condition in
27 which it is purchased or as an attachment to or integral part of

1 other property or service. A sale for resale includes a sale of
2 building materials to a contractor or repairperson electing to be
3 taxed as a retailer under subdivision (1) of section 77-2701.10, a
4 sale of building materials to a contractor or repairperson being
5 taxed as the consumer of building materials and electing a tax-free
6 inventory under subdivision (3) of section 77-2701.10, or a sale
7 of property to a purchaser for the sole purpose of that purchaser
8 renting or leasing such property to another person, with rent or
9 lease payments set at a fair market value, or film rentals for
10 use in a place where an admission is charged that is subject to
11 tax under the Nebraska Revenue Act of 1967 but not if incidental
12 to the renting or leasing of real estate. A sale ~~for resale~~ also
13 ~~includes the sale by a contractor of construction services to~~
14 ~~another contractor.~~

15 Sec. 13. Section 77-2703, Revised Statutes Cumulative
16 Supplement, 2006, is amended to read:

17 77-2703 (1) There is hereby imposed a tax at the rate
18 provided in section 77-2701.02 upon the gross receipts from all
19 sales of tangible personal property sold at retail in this state,
20 the gross receipts of every person engaged as a public utility,
21 as a community antenna television service operator or any person
22 involved in the connecting and installing of ~~the services defined~~
23 ~~in subdivision (2)(a), (b), or (d) of section 77-2701.16 until~~
24 ~~January 1, 2004,~~ and the services defined in subdivision (8)(a),
25 (b), (d), or (e) of section 77-2701.16, beginning on January 1,
26 ~~2004,~~ or as a retailer of intellectual or entertainment properties
27 referred to in ~~subsection (3) of section 77-2701.16 until January~~

1 ~~1, 2004,~~ and subsection (9) of section 77-2701.16, ~~beginning on~~
2 ~~January 1, 2004,~~ the gross receipts from the sale of admissions
3 in this state, the gross receipts from the sale of warranties,
4 guarantees, service agreements, or maintenance agreements when the
5 items covered are subject to tax under this section, and the gross
6 receipts from the provision of services defined in ~~subsection (4)~~
7 ~~of section 77-2701.16 until January 1, 2004,~~ and services defined
8 ~~in~~ subsection (10) of section 77-2701.16, ~~beginning on January~~
9 ~~1, 2004.~~ Except as provided in section 77-2701.03, when there is
10 a sale, the tax shall be imposed at the rate in effect at the
11 time the gross receipts are realized under the accounting basis
12 used by the retailer to maintain his or her books and records,
13 ~~or for a contractor when the payment or payments are received~~
14 ~~for construction services.~~ For purposes of this subsection until
15 January 1, 2004, the provision of services shall be deemed to
16 be in this state for services provided to real estate if the
17 real estate is located in this state, for services provided to
18 personal property or animals if the personal property or animal is
19 located in this state and the service is rendered for use in this
20 state, for detective services under subdivision (4)(i) of section
21 77-2701.16, in the case of a customer who is an individual, if the
22 individual is residing in this state, or in the case of a business
23 customer, if the principal place of the business is located in this
24 state, and for computer software training under subdivision (4)(c)
25 of section 77-2701.16 if the training is performed at a location
26 that is within this state for a customer located within this state.

27 (a) The tax imposed by this section shall be collected

1 by the retailer from the consumer. It shall constitute a part of
2 the purchase price and until collected shall be a debt from the
3 consumer to the retailer and shall be recoverable at law in the
4 same manner as other debts. The tax required to be collected by the
5 retailer from the consumer constitutes a debt owed by the retailer
6 to this state.

7 (b) It is unlawful for any retailer to advertise, hold
8 out, or state to the public or to any customer, directly or
9 indirectly, that the tax or part thereof will be assumed or
10 absorbed by the retailer, that it will not be added to the selling,
11 renting, or leasing price of the property sold, rented, or leased,
12 or that, if added, it or any part thereof will be refunded. The
13 provisions of this subdivision shall not apply to a public utility.

14 (c) The tax required to be collected by the retailer from
15 the purchaser, unless otherwise provided by statute or by rule and
16 regulation of the Tax Commissioner, shall be displayed separately
17 from the list price, the price advertised in the premises, the
18 marked price, or other price on the sales check or other proof of
19 sales, rentals, or leases.

20 (d) For the purpose of more efficiently securing the
21 payment, collection, and accounting for the sales tax and for the
22 convenience of the retailer in collecting the sales tax, it shall
23 be the duty of the Tax Commissioner to provide a schedule or
24 schedules of the amounts to be collected from the consumer or user
25 to effectuate the computation and collection of the tax imposed
26 by the Nebraska Revenue Act of 1967. Such schedule or schedules
27 shall provide that the tax shall be collected from the consumer

1 or user uniformly on sales according to brackets based on sales
2 prices of the item or items. Retailers may compute the tax due on
3 any transaction on an item or an invoice basis. The rounding rule
4 provided in section 77-3,117 applies.

5 (e) The use of tokens or stamps for the purpose of
6 collecting or enforcing the collection of the taxes imposed in the
7 Nebraska Revenue Act of 1967 or for any other purpose in connection
8 with such taxes is prohibited.

9 (f) For the purpose of the proper administration of the
10 provisions of the Nebraska Revenue Act of 1967 and to prevent
11 evasion of the retail sales tax, it shall be presumed that all
12 gross receipts are subject to the tax until the contrary is
13 established. The burden of proving that a sale of property is not
14 a sale at retail is upon the person who makes the sale unless he
15 or she takes from the purchaser (i) a resale certificate to the
16 effect that the property is purchased for the purpose of reselling,
17 leasing, or renting it, (ii) an exemption certificate pursuant to
18 subsection (7) of section 77-2705, or (iii) a direct payment permit
19 pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale
20 certificate, exemption certificate, or direct payment permit shall
21 be conclusive proof for the seller that the sale was made for
22 resale or was exempt or that the tax will be paid directly to the
23 state.

24 (g) In the rental or lease of automobiles, trucks,
25 trailers, semitrailers, and truck-tractors as defined in the Motor
26 Vehicle Registration Act, the tax shall be collected by the lessor
27 on the rental or lease price at the tax rate in effect on the date

1 the automobile, truck, trailer, semitrailer, or truck-tractor is
2 delivered to the lessee, except as otherwise provided within this
3 section.

4 (h) In the rental or lease of automobiles, trucks,
5 trailers, semitrailers, and truck-tractors as defined in the act,
6 for periods of one year or more, the lessor may elect not to
7 collect and remit the sales tax on the gross receipts and instead
8 pay a sales tax on the cost of such vehicle. If such election is
9 made, it shall be made pursuant to the following conditions:

10 (i) Notice of the desire to make such election shall
11 be filed with the Tax Commissioner and shall not become effective
12 until the Tax Commissioner is satisfied that the taxpayer has
13 complied with all conditions of this subsection and all rules and
14 regulations of the Tax Commissioner;

15 (ii) Such election when made shall continue in force and
16 effect for a period of not less than two years and thereafter until
17 such time as the lessor elects to terminate the election;

18 (iii) When such election is made, it shall apply to all
19 vehicles of the lessor rented or leased for periods of one year or
20 more except vehicles to be leased to common or contract carriers
21 who provide to the lessor a valid common or contract carrier
22 exemption certificate. If the lessor rents or leases other vehicles
23 for periods of less than one year, such lessor shall maintain his
24 or her books and records and his or her accounting procedure as the
25 Tax Commissioner prescribes; and

26 (iv) The Tax Commissioner by rule and regulation shall
27 prescribe the contents and form of the notice of election, a

1 procedure for the determination of the tax base of vehicles which
2 are under an existing lease at the time such election becomes
3 effective, the method and manner for terminating such election, and
4 such other rules and regulations as may be necessary for the proper
5 administration of this subdivision.

6 (i) The tax imposed by this section on the sales of
7 motor vehicles, semitrailers, and trailers as defined in sections
8 60-339, 60-348, and 60-354 shall be the liability of the purchaser
9 and, with the exception of motor vehicles, semitrailers, and
10 trailers registered pursuant to section 60-3,198, the tax shall
11 be collected by the county treasurer or designated county official
12 as provided in the Motor Vehicle Registration Act at the time
13 the purchaser makes application for the registration of the motor
14 vehicle, semitrailer, or trailer for operation upon the highways
15 of this state. The tax imposed by this section on motor vehicles,
16 semitrailers, and trailers registered pursuant to section 60-3,198
17 shall be collected by the Department of Motor Vehicles at the time
18 the purchaser makes application for the registration of the motor
19 vehicle, semitrailer, or trailer for operation upon the highways
20 of this state. At the time of the sale of any motor vehicle,
21 semitrailer, or trailer, the seller shall (i) state on the sales
22 invoice the dollar amount of the tax imposed under this section
23 and (ii) furnish to the purchaser a certified statement of the
24 transaction, in such form as the Tax Commissioner prescribes,
25 setting forth as a minimum the total sales price, the allowance for
26 any trade-in, and the difference between the two. The sales tax due
27 shall be computed on the difference between the total sales price

1 and the allowance for any trade-in as disclosed by such certified
2 statement. Any seller who willfully understates the amount upon
3 which the sales tax is due shall be subject to a penalty of one
4 thousand dollars. A copy of such certified statement shall also
5 be furnished to the Tax Commissioner. Any seller who fails or
6 refuses to furnish such certified statement shall be guilty of
7 a misdemeanor and shall, upon conviction thereof, be punished by
8 a fine of not less than twenty-five dollars nor more than one
9 hundred dollars. If the seller fails to state on the sales invoice
10 the dollar amount of the tax due, the purchaser shall have the
11 right and authority to rescind any agreement for purchase and
12 to declare the purchase null and void. If the purchaser retains
13 such motor vehicle, semitrailer, or trailer in this state and
14 does not register it for operation on the highways of this state
15 within thirty days of the purchase thereof, the tax imposed by
16 this section shall immediately thereafter be paid by the purchaser
17 to the county treasurer, the designated county official, or the
18 Department of Motor Vehicles. If the tax is not paid on or
19 before the thirtieth day after its purchase, the county treasurer,
20 designated county official, or Department of Motor Vehicles shall
21 also collect from the purchaser interest from the thirtieth day
22 through the date of payment and sales tax penalties as provided in
23 the Nebraska Revenue Act of 1967. The county treasurer, designated
24 county official, or Department of Motor Vehicles shall report and
25 remit the tax so collected to the Tax Commissioner by the fifteenth
26 day of the following month. The county treasurer or designated
27 county official shall deduct and withhold for the use of the county

1 general fund, from all amounts required to be collected under
2 this subsection, the collection fee permitted to be deducted by
3 any retailer collecting the sales tax. The Department of Motor
4 Vehicles shall deduct, withhold, and deposit in the Motor Carrier
5 Division Cash Fund the collection fee permitted to be deducted by
6 any retailer collecting the sales tax. The collection fee shall
7 be forfeited if the county treasurer, designated county official,
8 or Department of Motor Vehicles violates any rule or regulation
9 pertaining to the collection of the use tax.

10 (j)(i) The tax imposed by this section on the sale of a
11 motorboat as defined in section 37-1204 shall be the liability of
12 the purchaser. The tax shall be collected by the county treasurer
13 or designated county official at the time the purchaser makes
14 application for the registration of the motorboat. At the time
15 of the sale of a motorboat, the seller shall (A) state on the
16 sales invoice the dollar amount of the tax imposed under this
17 section and (B) furnish to the purchaser a certified statement of
18 the transaction, in such form as the Tax Commissioner prescribes,
19 setting forth as a minimum the total sales price, the allowance for
20 any trade-in, and the difference between the two. The sales tax due
21 shall be computed on the difference between the total sales price
22 and the allowance for any trade-in as disclosed by such certified
23 statement. Any seller who willfully understates the amount upon
24 which the sales tax is due shall be subject to a penalty of one
25 thousand dollars. A copy of such certified statement shall also
26 be furnished to the Tax Commissioner. Any seller who fails or
27 refuses to furnish such certified statement shall be guilty of a

1 misdemeanor and shall, upon conviction thereof, be punished by a
2 fine of not less than twenty-five dollars nor more than one hundred
3 dollars. If the seller fails to state on the sales invoice the
4 dollar amount of the tax due, the purchaser shall have the right
5 and authority to rescind any agreement for purchase and to declare
6 the purchase null and void. If the purchaser retains such motorboat
7 in this state and does not register it within thirty days of the
8 purchase thereof, the tax imposed by this section shall immediately
9 thereafter be paid by the purchaser to the county treasurer or
10 designated county official. If the tax is not paid on or before
11 the thirtieth day after its purchase, the county treasurer or
12 designated county official shall also collect from the purchaser
13 interest from the thirtieth day through the date of payment and
14 sales tax penalties as provided in the Nebraska Revenue Act of
15 1967. The county treasurer or designated county official shall
16 report and remit the tax so collected to the Tax Commissioner by
17 the fifteenth day of the following month. The county treasurer or
18 designated county official shall deduct and withhold for the use of
19 the county general fund, from all amounts required to be collected
20 under this subsection, the collection fee permitted to be deducted
21 by any retailer collecting the sales tax. The collection fee shall
22 be forfeited if the county treasurer or designated county official
23 violates any rule or regulation pertaining to the collection of the
24 use tax.

25 (ii) In the rental or lease of motorboats, the tax shall
26 be collected by the lessor on the rental or lease price.

27 (k) The Tax Commissioner shall adopt and promulgate

1 necessary rules and regulations for determining the amount subject
2 to the taxes imposed by this section so as to insure that the
3 full amount of any applicable tax is paid in cases in which a
4 sale is made of which a part is subject to the taxes imposed by
5 this section and a part of which is not so subject and a separate
6 accounting is not practical or economical.

7 (2) A use tax is hereby imposed on the storage, use, or
8 other consumption in this state of property purchased, leased, or
9 rented from any retailer and on any transaction the gross receipts
10 of which are subject to tax under subsection (1) of this section
11 on or after June 1, 1967, for storage, use, or other consumption
12 in this state at the rate set as provided in subsection (1) of
13 this section on the sales price of the property or, in the case of
14 leases or rentals, of the lease or rental prices.

15 (a) Every person storing, using, or otherwise consuming
16 in this state property purchased from a retailer or leased or
17 rented from another person for such purpose shall be liable for the
18 use tax at the rate in effect when his or her liability for the
19 use tax becomes certain under the accounting basis used to maintain
20 his or her books and records. His or her liability shall not be
21 extinguished until the use tax has been paid to this state, except
22 that a receipt from a retailer engaged in business in this state
23 or from a retailer who is authorized by the Tax Commissioner, under
24 such rules and regulations as he or she may prescribe, to collect
25 the sales tax and who is, for the purposes of the Nebraska Revenue
26 Act of 1967 relating to the sales tax, regarded as a retailer
27 engaged in business in this state, which receipt is given to the

1 purchaser pursuant to subdivision (b) of this subsection, shall be
2 sufficient to relieve the purchaser from further liability for the
3 tax to which the receipt refers.

4 (b) Every retailer engaged in business in this state and
5 selling, leasing, or renting property for storage, use, or other
6 consumption in this state shall, at the time of making any sale,
7 collect any tax which may be due from the purchaser and shall give
8 to the purchaser, upon request, a receipt therefor in the manner
9 and form prescribed by the Tax Commissioner.

10 (c) The Tax Commissioner, in order to facilitate the
11 proper administration of the use tax, may designate such person or
12 persons as he or she may deem necessary to be use tax collectors
13 and delegate to such persons such authority as is necessary to
14 collect any use tax which is due and payable to the State of
15 Nebraska. The Tax Commissioner may require of all persons so
16 designated a surety bond in favor of the State of Nebraska to
17 insure against any misappropriation of state funds so collected.
18 The Tax Commissioner may require any tax official, city, county, or
19 state, to collect the use tax on behalf of the state. All persons
20 designated to or required to collect the use tax shall account for
21 such collections in the manner prescribed by the Tax Commissioner.
22 Nothing in this subdivision shall be so construed as to prevent the
23 Tax Commissioner or his or her employees from collecting any use
24 taxes due and payable to the State of Nebraska.

25 (d) All persons designated to collect the use tax and all
26 persons required to collect the use tax shall forward the total of
27 such collections to the Tax Commissioner at such time and in such

1 manner as the Tax Commissioner may prescribe. For all use taxes
2 collected prior to October 1, 2002, such collectors of the use tax
3 shall deduct and withhold from the amount of taxes collected two
4 and one-half percent of the first three thousand dollars remitted
5 each month and one-half of one percent of all amounts in excess
6 of three thousand dollars remitted each month as reimbursement
7 for the cost of collecting the tax. For use taxes collected on
8 and after October 1, 2002, such collectors of the use tax shall
9 deduct and withhold from the amount of taxes collected two and
10 one-half percent of the first three thousand dollars remitted each
11 month as reimbursement for the cost of collecting the tax. Any
12 such deduction shall be forfeited to the State of Nebraska if such
13 collector violates any rule, regulation, or directive of the Tax
14 Commissioner.

15 (e) For the purpose of the proper administration of the
16 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,
17 it shall be presumed that property sold, leased, or rented by any
18 person for delivery in this state is sold, leased, or rented for
19 storage, use, or other consumption in this state until the contrary
20 is established. The burden of proving the contrary is upon the
21 person who purchases, leases, or rents the property.

22 (f) For the purpose of the proper administration of the
23 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,
24 for the sale of property to an advertising agency which purchases
25 the property as an agent for a disclosed or undisclosed principal,
26 the advertising agency is and remains liable for the sales and
27 use tax on the purchase the same as if the principal had made the

1 purchase directly.

2 Sec. 14. Section 77-2703.01, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 77-2703.01 (1) The determination of whether a sale or use
5 of property or the provision of services is in this state, in a
6 municipality that has adopted a tax under the Local Option Revenue
7 Act, or in a county that has adopted a tax under section 13-319
8 shall be governed by the sourcing rules in sections 77-2703.01 to
9 77-2703.04.

10 (2) When the property or service is received by the
11 purchaser at a business location of the retailer, the sale is
12 sourced to that business location.

13 (3) When the property or service is not received by the
14 purchaser at a business location of the retailer, the sale is
15 sourced to the location where receipt by the purchaser or the
16 purchaser's donee, designated as such by the purchaser, occurs,
17 including the location indicated by instructions for delivery to
18 the purchaser or donee, known to the retailer.

19 (4) When subsection (2) or (3) of this section does not
20 apply, the sale is sourced to the location indicated by an address
21 or other information for the purchaser that is available from
22 the business records of the retailer that are maintained in the
23 ordinary course of the retailer's business when use of this address
24 does not constitute bad faith.

25 (5) When subsection (2), (3), or (4) of this section does
26 not apply, the sale is sourced to the location indicated by an
27 address for the purchaser obtained during the consummation of the

1 sale, including the address of a purchaser's payment instrument, if
2 no other address is available, when use of this address does not
3 constitute bad faith.

4 (6) When subsection (2), (3), (4), or (5) of this section
5 does not apply, including the circumstance in which the retailer
6 is without sufficient information to apply the rules in any such
7 subsection, then the location will be determined by the address
8 from which property was shipped, from which the digital good was
9 first available for transmission by the retailer, or from which the
10 service was provided disregarding for these purposes any location
11 that merely provided the digital transfer of the product sold.

12 (7) The lease or rental of tangible personal property,
13 other than property identified in subsection (8) or (9) of this
14 section, shall be sourced as follows:

15 (a) For a lease or rental that requires recurring
16 periodic payments, the first periodic payment is sourced the same
17 as a retail sale in accordance with the provisions of subsections
18 (2) through (6) of this section. Periodic payments made subsequent
19 to the first payment are sourced to the primary property location
20 for each period covered by the payment. The primary property
21 location shall be as indicated by an address for the property
22 provided by the lessee that is available to the lessor from its
23 records maintained in the ordinary course of business when use of
24 this address does not constitute bad faith. The property location
25 shall not be altered by intermittent use at different locations,
26 such as use of business property that accompanies employees on
27 business trips and service calls; and

1 (b) For a lease or rental that does not require recurring
2 periodic payments, the payment is sourced the same as a retail sale
3 in accordance with the provisions of subsections (2) through (6) of
4 this section.

5 This subsection does not affect the imposition or
6 computation of sales or use tax on leases or rentals based on a
7 lump-sum or accelerated basis or on the acquisition of property
8 for lease.

9 (8) The lease or rental of motor vehicles, trailers,
10 semitrailers, or aircraft that do not qualify as transportation
11 equipment under subsection (9) of this section shall be sourced as
12 follows:

13 (a) For a lease or rental that requires recurring
14 periodic payments, each periodic payment is sourced to the primary
15 property location. The primary property location shall be as
16 indicated by an address for the property provided by the lessee
17 that is available to the lessor from its records maintained in
18 the ordinary course of business when use of this address does
19 not constitute bad faith. This location shall not be altered by
20 intermittent use at different locations; and

21 (b) For a lease or rental that does not require recurring
22 periodic payments, the payment is sourced the same as a retail sale
23 in accordance with the provisions of subsections (2) through (6) of
24 this section.

25 This subsection does not affect the imposition or
26 computation of sales or use tax on leases or rentals based on a
27 lump-sum or accelerated basis or on the acquisition of property

1 for lease.

2 (9) The retail sale, including lease or rental, of
3 transportation equipment shall be sourced the same as a retail sale
4 in accordance with subsections (2) through (6) of this section.

5 Transportation equipment means any of the following:

6 (a) Locomotives and railcars that are utilized for the
7 carriage of persons or property in interstate commerce;

8 (b) Trucks and truck-tractors with a gross vehicle
9 weight rating of ten thousand one pounds or greater, trailers,
10 semitrailers, or passenger buses that are (i) registered through
11 the International Registration Plan and (ii) operated under
12 authority of a carrier authorized and certificated by the United
13 States Department of Transportation or another federal authority
14 to engage in the carriage of persons or property in interstate
15 commerce;

16 (c) Aircraft operated by air carriers authorized and
17 certificated by the United States Department of Transportation or
18 another federal authority or a foreign authority to engage in the
19 carriage of persons or property in interstate or foreign commerce;
20 and

21 (d) Containers designed for use on and component parts
22 attached or secured on the items set forth in subdivisions (9) (a)
23 through (c) of this section.

24 (10) For purposes of this section, receive and receipt
25 mean taking possession of tangible personal property, making first
26 use of services, or taking possession or making first use of
27 digital goods, whichever comes first. The terms receive and receipt

1 do not include possession by a shipping company on behalf of the
2 purchaser. For purposes of sourcing detective services subject to
3 tax under subdivision ~~(10)(i)~~ (10)(h) of section 77-2701.16, making
4 first use of a service shall be deemed to be at the individual's
5 residence, in the case of a customer who is an individual, or
6 at the principal place of business, in the case of a business
7 customer.

8 (11) The sale, not including lease or rental, of a motor
9 vehicle, semitrailer, or trailer as defined in the Motor Vehicle
10 Registration Act shall be sourced to the place of registration of
11 the motor vehicle, semitrailer, or trailer for operation upon the
12 highways of this state.

13 (12) The sale or lease for one year or more of motorboats
14 shall be sourced to the place of registration of the motorboat. The
15 lease of motorboats for less than one year shall be sourced to the
16 point of delivery.

17 Sec. 15. Section 77-2704.33, Revised Statutes Cumulative
18 Supplement, 2006, is amended to read:

19 77-2704.33 (1) When a written contract exists for a
20 fixed price for a construction, reconstruction, alteration, or
21 improvement project and the sales tax rate is increased during
22 the term of that fixed-price contract, the contractor may apply
23 for a refund of the increased sales tax amount if such refund
24 amount exceeds ten dollars. The contractor shall be refunded such
25 increased amount if the contractor certifies that the contract
26 was entered into prior to the increase in the tax and that the
27 increased tax for which the refund is requested was paid on the

1 building materials annexed to real estate in the project. The
2 contractor shall agree to submit a copy of the contract or other
3 evidence necessary to prove the validity of the application to the
4 satisfaction of the Tax Commissioner. In the event that the sales
5 tax rate is decreased during the term of that fixed-price contract,
6 the contractor shall pay to the Department of Revenue the decreased
7 sales tax amount if the amount of such payment exceeds ten dollars.
8 Failure by a contractor to pay the decreased sales tax amount
9 as provided in this subsection shall be a Class I misdemeanor
10 if the amount is three hundred dollars or more and a Class IIIA
11 misdemeanor in all other cases.

12 (2) ~~When a written contract exists for a fixed price for~~
13 ~~a construction, reconstruction, alteration, or improvement project~~
14 ~~and the construction services became subject to the sales and use~~
15 ~~tax during the term of that fixed-price contract, the taxpayer~~
16 ~~may apply for a refund of the increased sales tax amount if such~~
17 ~~refund amount exceeds ten dollars. The taxpayer shall be refunded~~
18 ~~such increased amount if the taxpayer certifies that the contract~~
19 ~~was entered into prior to the increase in the tax and that the~~
20 ~~increased tax for which the refund is requested was paid on the~~
21 ~~construction services. The taxpayer shall agree to submit a copy of~~
22 ~~the contract or other evidence necessary to prove the validity of~~
23 ~~the application to the satisfaction of the Tax Commissioner. In the~~
24 ~~event that construction services are removed from the sales and use~~
25 ~~tax base during the term of a fixed-price contract, the taxpayer~~
26 ~~shall pay to the Department of Revenue the decreased sales tax~~
27 ~~amount if the amount of such payment exceeds ten dollars. Failure~~

1 by a taxpayer to pay the decreased sales tax amount as provided in
2 this subsection shall be a Class I misdemeanor if the amount is
3 three hundred dollars or more and a Class IIIA misdemeanor in all
4 other cases.

5 Sec. 16. Section 77-2704.55, Revised Statutes Cumulative
6 Supplement, 2006, is amended to read:

7 77-2704.55 ~~(1)~~ Sales and use taxes shall not be
8 imposed on the gross receipts for the labor of a contractor as
9 determined in subdivision ~~(10)(e)~~ of section 77-2701.16 purchased
10 in connection with the following types of construction projects:

11 ~~(a) The first or original construction of a new
12 structure, building, or unit;~~

13 ~~(b) The construction, repair, or annexation of any
14 structure used for the generation, transmission, or distribution of
15 electricity;~~

16 ~~(c) The major addition, remodeling, restoration, repair,
17 or renovation of an existing structure or building or a unit of
18 an existing building that is a single construction project of any
19 type that costs at least fifty percent of the current value of the
20 existing structure or building or unit of an existing building; or~~

21 ~~(d) Commencing July 1, 2006, construction services on
22 dwellings designed for occupancy by one family or duplexes designed
23 for occupancy by two families.~~

24 ~~(2) For purposes of this section:~~

25 ~~(a) Building means any freestanding structure annexed to
26 land, enclosed within a roof and exterior walls, regardless of
27 whether enclosed on all sides;~~

1 (b) Current value means the current assessed value of
2 the structure, building, or unit as determined in the records
3 of the county assessor. If the county assessor has no current
4 assessed value, the current value shall be the market value of
5 the structure, building, or unit as shown by an appraisal of the
6 property that has been performed by a licensed appraiser within six
7 months prior to commencement of the construction project;

8 (c) Dwelling means a residential structure. Dwelling
9 includes an attached or detached garage. Dwelling does not include
10 fences, landscaping, retaining walls, storage buildings, or other
11 structures that are not designed for human habitation;

12 (d) Owner-occupied residential unit means a residential
13 unit in a dwelling complex containing three or more units actually
14 occupied by a natural person who is the owner of record or who has
15 a life tenancy therein at the time the construction or repair work
16 is performed;

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

21 (f) Unit means a physical portion of a building
22 designated for separate ownership, rental, or occupancy. If a unit
23 of a building is to be renovated and the current value is known
24 only for the building, the current value for the building shall be
25 apportioned to the unit based on square footage of floor space.

26 (3) (1) Construction services performed on an
27 owner-occupied residential unit shall be subject to tax, but

1 ~~commencing July 1, 2006, prior to October 1, 2007, but~~ the owner
2 shall be entitled to a refund of any sales and use taxes paid by
3 the owner on construction services pursuant to this subsection. A
4 taxpayer shall be entitled to a refund of any sales tax paid on
5 the gross receipts for the labor of a contractor for any major
6 addition, remodeling, restoration, repair, or renovation described
7 in this section as it existed prior to October 1, 2007. The refund
8 granted in this subsection shall be conditioned upon filing a claim
9 for the refund on a form developed by the Tax Commissioner. The
10 requirements imposed by the Tax Commissioner shall be related to
11 ensuring that the project qualifies for the refund. Any information
12 received pursuant to the requirements of this subsection may
13 be disclosed to any tax official in this state. Any taxpayer
14 who provides false information on the forms required by the Tax
15 Commissioner for purposes of this subsection shall be subject to
16 the penalties provided in subsection (8) of section 77-2705.

17 ~~(4)(a) Until July 1, 2007, a taxpayer may seek prior~~
18 ~~approval from the Department of Revenue that the project, if~~
19 ~~substantially completed according to designs and specifications~~
20 ~~submitted with the application to the department, meets the~~
21 ~~requirements for a major addition, remodeling, restoration, repair,~~
22 ~~or renovation under this section and the labor performed in~~
23 ~~annexing the building materials to real estate will be exempt from~~
24 ~~tax.~~

25 ~~(b) The approval granted in this subsection shall be~~
26 ~~conditioned upon filing an application on a form developed by the~~
27 ~~Tax Commissioner with an application fee of five hundred dollars.~~

1 The application fee shall be remitted to the State Treasurer for
2 credit to the Department of Revenue Contractor Enforcement Fund.
3 The application shall be supported by designs, specifications,
4 contract amount, and the current value. Any requirements imposed by
5 the Tax Commissioner shall be related to ensuring that the project
6 qualifies for the exemption so long as the project is completed
7 in substantial conformity with the designs and specifications
8 submitted with the application.

9 (c) The Tax Commissioner shall approve or deny the
10 application within sixty business days after receiving the
11 application. Within sixty days after the completion of the
12 renovation, a licensed architect or engineer shall certify to the
13 Tax Commissioner that the renovation was completed in substantial
14 conformity with the designs and specifications submitted with the
15 application or shall amend the original application to describe the
16 project as actually completed.

17 (d) Any information received pursuant to the requirements
18 of this subsection may be disclosed to any tax official in this
19 state. Any person who provides false information on the forms or
20 designs and specifications required by the Tax Commissioner for
21 purposes of this subsection shall be subject to the penalties
22 provided in subsection (8) of section 77-2705.

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

1 ~~(6)~~ (2) The Department of Revenue Contractor Enforcement
2 Fund is created. Any money in the fund available for investment
3 shall be invested by the state investment officer pursuant to
4 the Nebraska Capital Expansion Act and the Nebraska State Funds
5 Investment Act.

6 Sec. 22. Section 77-27,235, Revised Statutes Cumulative
7 Supplement, 2006, is amended to read:

8 77-27,235 (1) Any producer of electricity generated by
9 a new zero-emission facility shall earn a renewable energy tax
10 credit. For electricity generated on or after July 14, 2006, and
11 before ~~January 1, 2010,~~ October 1, 2007, the credit shall be
12 .075 cent for each kilowatt-hour of electricity generated by a
13 new zero-emission facility. For electricity generated on or after
14 October 1, 2007, and before January 1, 2010, the credit shall
15 be .1 cent for each kilowatt-hour of electricity generated by a
16 new zero-emission facility. For electricity generated on or after
17 January 1, 2010, and before January 1, 2013, the credit shall be
18 ~~.05~~ .075 cent per kilowatt-hour for electricity generated by a
19 new zero-emission facility. For electricity generated on or after
20 January 1, 2013, and before January 1, 2018, the credit shall be
21 ~~.025~~ .05 cent per kilowatt-hour for electricity generated by a new
22 zero-emission facility. The credit may be earned for production
23 of electricity for ten years after the date that the facility is
24 placed in operation on or after July 14, 2006.

25 (2) For purposes of this section:

26 (a) Electricity generated by a new zero-emission
27 facility means electricity that is exclusively produced by a new

1 zero-emission facility;

2 (b) Eligible renewable resources means wind, moving
3 water, solar, geothermal, fuel cell, methane gas, or photovoltaic
4 technology; and

5 (c) New zero-emission facility means an electrical
6 generating facility located in this state that is first placed into
7 service on or after July 14, 2006, ~~with a rated production of one~~
8 ~~megawatt or greater~~ which utilizes eligible renewable resources
9 as its fuel source and for which the operation of the facility
10 results in no pollution or emissions that are or may be harmful
11 to the environment as certified by the Department of Environmental
12 Quality.

13 (3) The credit allowed under this section may be used to
14 reduce the producer's Nebraska income tax liability or to obtain
15 a refund of state sales and use taxes paid by the producer of
16 electricity generated by a zero-emission facility. A claim to use
17 the credit for refund of the state sales and use taxes paid, either
18 directly or indirectly, by the producer may be filed quarterly for
19 electricity generated during the previous quarter by the twentieth
20 day of the month following the end of the calendar quarter. The
21 credit may be used to obtain a refund of state sales and use taxes
22 paid during the quarter immediately preceding the quarter in which
23 the claim for refund is made, except that the amount refunded under
24 this subsection shall not exceed the amount of the state sales and
25 use taxes paid during the quarter.

26 (4) The Department of Revenue may adopt and promulgate
27 rules and regulations to permit verification of the validity and

1 timeliness of any renewable energy tax credit claimed.

2 (5) The Environmental Quality Council may adopt and
3 promulgate rules and regulations to certify that the operation of
4 a new zero-emission facility results in no pollution or emissions
5 that are or may be harmful to the environment.

6 (6) The total amount of renewable energy tax credits
7 that may be used by all taxpayers shall be limited to ~~four~~ seven
8 hundred fifty thousand dollars without further authorization from
9 the Legislature.

10 (7) The credit allowed under this section may not be
11 claimed by a producer who received a sales tax exemption under
12 section 9 of this act.

13 Sec. 25. Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16,
14 22, 28, and 30 of this act become operative on October 1, 2007.
15 Sections 6 and 27 of this act become operative on their effective
16 date.

17 Sec. 27. Original section 77-2101, Reissue Revised
18 Statutes of Nebraska, is repealed.

19 Sec. 28. Original sections 77-2701, 77-2701.04,
20 77-2701.10, 77-2701.16, 77-2701.34, 77-2703, 77-2703.01,
21 77-2704.33, 77-2704.55, and 77-27,235, Revised Statutes Cumulative
22 Supplement, 2006, are repealed.

23 Sec. 30. The following sections are outright repealed:
24 Section 77-2709.01, Reissue Revised Statutes of Nebraska, and
25 section 77-2701.45, Revised Statutes Cumulative Supplement, 2006.