

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 916

FINAL READING

Introduced by Revenue Committee: Janssen, 15, Chairperson; Burling, 33; Cornett, 45; Dierks, 40; Langemeier, 23; Preister, 5; Raikes, 25; White, 8.

Read first time January 14, 2008

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701.32, 77-2704.26, 77-2704.45, 77-2704.46, and
3 77-2705, Reissue Revised Statutes of Nebraska, section
4 77-2708, Revised Statutes Cumulative Supplement, 2006,
5 and sections 70-1903, 70-1904, 70-1905, 70-1907, 77-2701,
6 77-2701.04, 77-2701.16, 77-2701.34, 77-2703, 77-2703.01,
7 77-2704.09, and 77-2704.57, Revised Statutes Supplement,
8 2007; to change provisions relating to sales and use tax
9 treatment of community-based energy development projects;
10 to define and redefine terms; to provide for and change
11 provisions relating to sales and use tax exemptions; to
12 change provisions relating to sales and use tax retailer

1 registration and refund claims; to provide for sales
2 tax treatment of digital works; to eliminate obsolete
3 provisions; to harmonize provisions; to provide operative
4 dates; and to repeal the original sections.

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

1 Section 1. Section 70-1903, Revised Statutes Supplement,
2 2007, is amended to read:

3 70-1903 For purposes of the Rural Community-Based Energy
4 Development Act:

5 (1) C-BED project or community-based energy development
6 project means a new wind energy project that:

7 (a) Has an ownership structure as follows:

8 (i) For a C-BED project that consists of more than two
9 turbines, ~~is owned by~~ has one or more qualified owners with no
10 single individual qualified owner owning directly or indirectly
11 more than fifteen percent of the project and with at least
12 thirty-three percent of the gross power purchase agreement payments
13 flowing to the qualified owner or owners or local community; or

14 (ii) For a C-BED project that consists of one or two
15 turbines, ~~is owned by~~ has one or more qualified owners with at
16 least thirty-three percent of the gross power purchase agreement
17 payments flowing to a qualified owner or owners or local community;
18 and

19 (b) Has a resolution of support adopted:

20 (i) By the county board of each county in which the C-BED
21 project is to be located; or

22 (ii) By the tribal council for a C-BED project located
23 within the boundaries of an Indian reservation;

24 (2) Electric utility means an electric supplier that:

25 (a) Owns more than one hundred miles of

1 one-hundred-fifteen-kilovolt or larger transmission lines in the
2 State of Nebraska;

3 (b) Owns more than two hundred megawatts of electric
4 generating facilities; and

5 (c) Has the obligation to directly serve more than two
6 hundred megawatts of wholesale or retail electric load in the State
7 of Nebraska; and

8 (3) Qualified owner means:

9 (a) A Nebraska resident;

10 (b) A limited liability company that is organized under
11 the Limited Liability Company Act and that is made up of members
12 who are Nebraska residents;

13 (c) A Nebraska nonprofit corporation organized under the
14 Nebraska Nonprofit Corporation Act;

15 (d) An electric supplier as defined in section
16 70-1001.01, except that ownership in a single C-BED project is
17 limited to no more than:

18 (i) Fifteen percent either directly or indirectly by a
19 single electric supplier; and

20 (ii) A combined total of twenty-five percent ownership
21 either directly or indirectly by multiple electric suppliers; or

22 (e) A tribal council.

23 Sec. 2. Section 70-1904, Revised Statutes Supplement,
24 2007, is amended to read:

25 70-1904 (1) A C-BED project developer and an electric

1 utility are authorized to negotiate in good faith mutually
2 agreeable power purchase agreement terms.

3 (2) A qualified owner or any combination of qualified
4 owners may develop a C-BED project with an equity partner that is
5 not a qualified owner, if not more than sixty-seven percent of the
6 power purchase agreement payments flow to the nonqualified owners.

7 (3) Except for an inherited interest, the transfer of
8 a C-BED project to any person other than a qualified owner is
9 prohibited during the initial ten years of the power purchase
10 agreement.

11 (4) A C-BED project that is operating under a power
12 purchase agreement is not eligible for any applicable net energy
13 billing.

14 (5) A C-BED project shall be subject to approval by the
15 Nebraska Power Review Board in accordance with Chapter 70, article
16 10, or shall receive certification as a qualifying facility in
17 accordance with the federal Public Utility Regulatory Policies Act
18 of 1978, 16 U.S.C. 2601 et seq., with written notice of such
19 certification provided to the Nebraska Power Review Board.

20 (6) A C-BED project developer shall notify the electric
21 utility that has a power purchase agreement with a C-BED project if
22 there is a change in project ownership which makes the project no
23 longer eligible as a C-BED project.

24 Sec. 3. Section 70-1905, Revised Statutes Supplement,
25 2007, is amended to read:

1 70-1905 An electric utility shall:

2 (1) Consider mechanisms to encourage the aggregation of
3 C-BED projects located in the same general geographical area;

4 (2) Require any qualified owner to provide sufficient
5 security to assure performance under the power purchase agreement;
6 and

7 (3) Annually prepare a statement by March 1 summarizing
8 its efforts to purchase energy from C-BED projects, including a
9 list of the C-BED projects under a power purchase agreement and the
10 amount of C-BED project energy purchased. The statement shall be
11 posted on the electric utility's web site.

12 Sec. 4. Section 70-1907, Revised Statutes Supplement,
13 2007, is amended to read:

14 70-1907 To the extent feasible, a C-BED project developer
15 shall provide, in writing, an opportunity to ~~invest~~ become a
16 qualified owner in the C-BED project to each property owner on
17 whose property a turbine ~~is~~ will be located.

18 Sec. 5. Section 77-2701, Revised Statutes Supplement,
19 2007, is amended to read:

20 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to
21 77-27,236 and sections 9 to 13, 22, and 23 of this act shall be
22 known and may be cited as the Nebraska Revenue Act of 1967.

23 Sec. 6. Section 77-2701.04, Revised Statutes Supplement,
24 2007, is amended to read:

25 77-2701.04 For purposes of sections 77-2701.04 to 77-2713

1 and sections 9 to 13, 22, and 23 of this act, unless the context
2 otherwise requires, the definitions found in sections 77-2701.05 to
3 77-2701.48 and sections 9 to 13 of this act shall be used.

4 Sec. 7. Section 77-2701.16, Revised Statutes Supplement,
5 2007, is amended to read:

6 77-2701.16 ~~(1)~~ Gross receipts shall mean the total amount
7 of the sale or lease or rental price, as the case may be, of
8 the retail sales of retailers valued in money whether received in
9 money or otherwise, without any deduction on account of any of the
10 following:

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

22 ~~(b)~~ The cost of the materials used, labor or service
23 costs, interest paid, losses, or any other expense,

24 ~~(c)~~ The cost of transportation of the property,

25 ~~(d)~~ The amount of any excise or property tax levied

1 against the property except as otherwise provided in the Nebraska
2 Revenue Act of 1967, or

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

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

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

1 mean the right to exclusively purchase telecommunications service
2 that is paid for in advance that enables the origination of calls
3 using an access number or authorization code, whether manually or
4 electronically dialed;

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

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

13 ~~(d) In the furnishing of community antenna television~~
14 ~~service, the gross income received from the furnishing of such~~
15 ~~community antenna television service as regulated under sections~~
16 ~~18-2201 to 18-2205 or 23-383 to 23-388.~~

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

25 ~~(3) Gross receipts of every person engaged in selling,~~

1 leasing, or otherwise providing intellectual or entertainment
2 property shall mean:

3 (a) In the furnishing of computer software, the gross
4 income received, including the charges for coding, punching, or
5 otherwise producing computer software and the charges for the
6 tapes, disks, punched cards, or other properties furnished by the
7 seller, and

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

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

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

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

22 (c) The gross income received for computer software
23 training;

24 (d) The gross income received for installing and applying
25 tangible personal property if the sale of the property is subject

1 to tax;

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

4 (f) The gross income received for services of
5 recreational vehicle parks;

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

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

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

15 (5) Gross receipts shall not include any of the
16 following:

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

18 (b) The amount of any rebate granted by a motor vehicle
19 or motorboat manufacturer or dealer at the time of sale of the
20 motor vehicle or motorboat, which rebate functions as a discount
21 from the sales price of the motor vehicle or motorboat;

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

25 (d) The amount charged for finance charges, carrying

1 charges, service charges, or interest from credit extended on sales
2 of property or services under contracts providing for deferred
3 payments of the purchase price if such charges are not used as a
4 means of avoiding imposition of the tax upon the actual sales price
5 of the property or services;

6 (e) The value of property taken by a seller in trade as
7 all or a part of the consideration for a sale of property of any
8 kind or nature;

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

12 (g) Receipts from conditional sale contracts, installment
13 sale contracts, rentals, and leases executed in writing prior to
14 June 1, 1967, and with delivery of the property prior to June
15 1, 1967, if such conditional sale contracts, installment sale
16 contracts, rentals, or leases are for a fixed price and are not
17 subject to negotiation or alteration; or

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

24 (6) Subsections (1) through (6) of this section terminate
25 on January 1, 2004.

1 ~~(7)~~ (1) Gross receipts means the total amount of the sale
2 or lease or rental price, as the case may be, of the retail sales
3 of retailers.

4 ~~(8)~~ (2) Gross receipts of every person engaged as a
5 public utility specified in this subsection, ~~or~~ as a community
6 antenna television service operator, or as a satellite service
7 operator or any person involved in connecting and installing
8 services defined in subdivision ~~(8)(a)~~, (2)(a), (b), or (d) of this
9 section means:

10 (a)(i) In the furnishing of telephone communication
11 service, other than mobile telecommunications service as described
12 in section 77-2703.04, the gross income received from furnishing
13 local exchange telephone service and intrastate message toll
14 telephone service; and

15 (ii) In the furnishing of mobile telecommunications
16 service as described in section 77-2703.04, the gross income
17 received from furnishing mobile telecommunications service that
18 originates and terminates in the same state to a customer with a
19 place of primary use in Nebraska;

20 (b) In the furnishing of telegraph service, the gross
21 income received from the furnishing of intrastate telegraph
22 services;

23 (c) In the furnishing of gas, electricity, sewer, and
24 water service, the gross income received from the furnishing of
25 such services upon billings or statements rendered to consumers for

1 such utility services;

2 (d) In the furnishing of community antenna television
3 service or satellite service, the gross income received from
4 the furnishing of such community antenna television service as
5 regulated under sections 18-2201 to 18-2205 or 23-383 to 23-388 or
6 satellite service; and

7 (e) The gross income received from the provision,
8 installation, construction, servicing, or removal of property used
9 in conjunction with the furnishing, installing, or connecting of
10 any public utility services specified in subdivision ~~(8)(a)~~ (2)(a)
11 or (b) of this section or community antenna television service
12 or satellite service specified in subdivision ~~(8)(d)~~ (2)(d) of
13 this section, except when acting as a subcontractor for a public
14 utility, this subdivision does not apply to the gross income
15 received by a contractor electing to be treated as a consumer
16 of building materials under subdivision (2) or (3) of section
17 77-2701.10 for any such services performed on the customer's side
18 of the utility demarcation point.

19 ~~(9)~~ (3) Gross receipts of every person engaged
20 in selling, leasing, or otherwise providing intellectual or
21 entertainment property means:

22 (a) In the furnishing of computer software, the gross
23 income received, including the charges for coding, punching, or
24 otherwise producing any computer software and the charges for the
25 tapes, disks, punched cards, or other properties furnished by the

1 seller; and

2 (b) In the furnishing of videotapes, movie film,
3 satellite programming, satellite programming service, and satellite
4 television signal descrambling or decoding devices, the gross
5 income received from the license, franchise, or other method
6 establishing the charge.

7 ~~(10)~~ (4) Gross receipts for providing a service means:

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

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

12 (c) The gross income received for computer software
13 training;

14 (d) The gross income received for installing and applying
15 tangible personal property if the sale of the property is subject
16 to tax. If any or all of the charge for installation is free to
17 the customer and is paid by a third-party service provider, any
18 tax due on that part of the activation commission, finder's fee,
19 installation charge, or similar payment made by the third-party
20 service provider shall be paid by the third-party service provider
21 and collected and remitted by the installer;

22 (e) The gross income received for services of
23 recreational vehicle parks;

24 (f) The gross income received for labor for repair or
25 maintenance services performed with regard to tangible personal

1 property the sale of which would be subject to sales and use taxes,
2 excluding motor vehicles, except as otherwise provided in section
3 77-2704.26 or 77-2704.50;

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

7 (h) The gross income received for detective services.

8 ~~(11)~~ (5) Gross receipts includes the sale of admissions
9 which means the right or privilege to have access to or to use a
10 place or location. An admission includes a membership that allows
11 access to or use of a place or location, but which membership
12 does not include the right to hold office, vote, or change the
13 policies of the organization. When an admission to an activity or
14 a membership constituting an admission pursuant to this subsection
15 is combined with the solicitation of a contribution, the portion
16 or the amount charged representing the fair market price of
17 the admission shall be considered a retail sale subject to the
18 tax imposed by section 77-2703. The organization conducting the
19 activity shall determine the amount properly attributable to the
20 purchase of the privilege, benefit, or other consideration in
21 advance, and such amount shall be clearly indicated on any ticket,
22 receipt, or other evidence issued in connection with the payment.

23 ~~(12)~~ (6) Gross receipts includes the sale of live plants
24 incorporated into real estate except when such incorporation is
25 incidental to the transfer of an improvement upon real estate or

1 the real estate.

2 ~~(13)~~ (7) Gross receipts includes the sale of any building
3 materials annexed to real estate by a person electing to be taxed
4 as a retailer pursuant to subdivision (1) of section 77-2701.10.

5 ~~(14)~~ (8) Gross receipts includes the sale of prepaid
6 telephone calling arrangements and the recharge of prepaid
7 telephone calling arrangements. If the sale or recharge of a
8 prepaid telephone calling arrangement does not take place at
9 the vendor's place of business, the sale or recharge shall be
10 conclusively determined to take place at the customer's shipping
11 address or, if there is no item shipped, at the customer's
12 billing address. For purposes of this subsection, a prepaid
13 telephone calling arrangement means the right to exclusively
14 purchase telecommunications services that are paid for in advance
15 that enables the origination of calls using an access number or
16 authorization code, whether manually or electronically dialed.

17 (9) Gross receipts includes the retail sale of digital
18 audio works, digital audiovisual works, digital codes, and digital
19 books delivered electronically if the products are taxable when
20 delivered on tangible storage media. A sale includes the transfer
21 of a permanent right of use, the transfer of a right of use that
22 terminates on some condition, and the transfer of a right of use
23 conditioned upon the receipt of continued payments.

24 ~~(15)~~ (10) Gross receipts does not include:

25 (a) The amount of any rebate granted by a motor vehicle

1 or motorboat manufacturer or dealer at the time of sale of the
2 motor vehicle or motorboat, which rebate functions as a discount
3 from the sales price of the motor vehicle or motorboat; or

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

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

9 ~~(17) The Tax Commissioner shall hold a hearing on rules~~
10 ~~and regulations to carry out the changes made to this section by~~
11 ~~Laws 2003, LB 759. It is the intent of the Legislature that the Tax~~
12 ~~Commissioner adopt and promulgate rules and regulations to carry~~
13 ~~out such changes.~~

14 Sec. 8. Section 77-2701.32, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 77-2701.32 (1) Retailer means any seller.

17 (2) To facilitate the proper administration of the
18 Nebraska Revenue Act of 1967, the following persons have the
19 duties and responsibilities of sellers for the purposes of sales
20 and use taxes:

21 (a) Any person in the business of making sales subject
22 to tax under section 77-2703 at auction of property owned by the
23 person or others;

24 (b) Any person collecting the proceeds of the auction,
25 other than the owner of the property, together with his or her

1 principal, if any, when the person collecting the proceeds of the
2 auction is not the auctioneer or an agent or employee of the
3 auctioneer. The seller does not include the auctioneer in such
4 case;

5 (c) Every person who has elected to be considered a
6 retailer pursuant to subdivision (1) of section 77-2701.10;

7 (d) Every person operating, organizing, or promoting a
8 flea market, craft show, fair, or similar event; and

9 (e) Every person engaged in the business of providing any
10 service defined in subsection ~~(10)~~ (4) of section 77-2701.16.

11 (3) For the proper administration of the Nebraska Revenue
12 Act of 1967, the following persons do not have the duties and
13 responsibilities of a seller for purposes of sales and use taxes:

14 (a) Any person who leases or rents films when an
15 admission tax is charged under the Nebraska Revenue Act of 1967;

16 (b) Any person who leases or rents railroad rolling stock
17 interchanged pursuant to the provisions of the federal Interstate
18 Commerce Act;

19 (c) Any person engaged in the business of furnishing
20 rooms in a facility licensed under the Health Care Facility
21 Licensure Act in which rooms, lodgings, or accommodations are
22 regularly furnished for a consideration or a facility operated by
23 an educational institution established under Chapter 79 or Chapter
24 85 in which rooms are regularly used to house students for a
25 consideration for periods in excess of thirty days; or

1 (d) Any person making sales at a flea market, craft show,
2 fair, or similar event when such person does not have a sales tax
3 permit and has arranged to pay sales taxes collected to the person
4 operating, organizing, or promoting such event.

5 Sec. 9. Delivered electronically means obtained by the
6 purchaser by means other than tangible storage media.

7 Sec. 10. Digital audio works means works that result from
8 the fixation of a series of musical, spoken, or other sounds,
9 including ringtones.

10 Sec. 11. Digital audiovisual works means a series
11 of related images which, when shown in succession, impart an
12 impression of motion, together with accompanying sounds, if any.

13 Sec. 12. Digital books means works that are generally
14 recognized in the ordinary and usual sense as books.

15 Sec. 13. Digital code means a code which provides a
16 purchaser with a right to obtain one or more products delivered
17 electronically. A digital code may be obtained by any means,
18 including email or tangible means.

19 Sec. 14. Section 77-2701.34, Revised Statutes Supplement,
20 2007, is amended to read:

21 77-2701.34 Sale for resale means a sale of property or
22 provision of a service to any purchaser who is purchasing such
23 property or service for the purpose of reselling it in the normal
24 course of his or her business, either in the form or condition in
25 which it is purchased or as an attachment to or integral part of

1 other property or service. A sale for resale includes (1) a sale
2 of building materials to a contractor or repairperson electing to
3 be taxed as a retailer under subdivision (1) of section 77-2701.10,
4 or a sale of building materials to a contractor or repairperson
5 being taxed as the consumer of building materials and electing
6 a tax-free inventory under subdivision (3) of section 77-2701.10,
7 ~~or~~ (2) a sale of property to a purchaser for the sole purpose
8 of that purchaser renting or leasing such property to another
9 person, with rent or lease payments set at a fair market value,
10 ~~or~~ (3) film rentals for use in a place where an admission is
11 charged that is subject to tax under the Nebraska Revenue Act
12 of 1967 but not if incidental to the renting or leasing of real
13 estate, or (4) a sale of digital products, community antenna
14 television services, Internet services, and satellite services to a
15 person who receives by contract the product or service transferred
16 electronically for further broadcast, transmission, retransmission,
17 licensing, relicensing, distribution, redistribution, or exhibition
18 of the product or service for use in a place where an admission is
19 charged that is subject to sales tax under the Nebraska Revenue Act
20 of 1967.

21 Sec. 15. Section 77-2703, Revised Statutes Supplement,
22 2007, is amended to read:

23 77-2703 (1) There is hereby imposed a tax at the rate
24 provided in section 77-2701.02 upon the gross receipts from all
25 sales of tangible personal property sold at retail in this state;

1 the gross receipts of every person engaged as a public utility, as
2 a community antenna television service operator, or as a satellite
3 service operator, ~~or~~ any person involved in the connecting and
4 installing of the services defined in subdivision ~~(8)(a)~~, (2)(a),
5 (b), (d), or (e) of section 77-2701.16, or every person engaged
6 as a retailer of intellectual or entertainment properties referred
7 to in subsection ~~(9)~~ (3) of section 77-2701.16; the gross receipts
8 from the sale of admissions in this state; the gross receipts
9 from the sale of warranties, guarantees, service agreements, or
10 maintenance agreements when the items covered are subject to tax
11 under this section; beginning January 1, 2008, the gross receipts
12 from the sale of bundled transactions when one or more of the
13 products included in the bundle are taxable; ~~and~~ the gross receipts
14 from the provision of services defined in subsection ~~(10)~~ (4)
15 of section 77-2701.16; and the gross receipts from the sale of
16 products delivered electronically as described in subsection (9) of
17 section 77-2701.16. Except as provided in section 77-2701.03, when
18 there is a sale, the tax shall be imposed at the rate in effect at
19 the time the gross receipts are realized under the accounting basis
20 used by the retailer to maintain his or her books and records.

21 (a) The tax imposed by this section shall be collected
22 by the retailer from the consumer. It shall constitute a part of
23 the purchase price and until collected shall be a debt from the
24 consumer to the retailer and shall be recoverable at law in the
25 same manner as other debts. The tax required to be collected by the

1 retailer from the consumer constitutes a debt owed by the retailer
2 to this state.

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

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

16 (d) For the purpose of more efficiently securing the
17 payment, collection, and accounting for the sales tax and for the
18 convenience of the retailer in collecting the sales tax, it shall
19 be the duty of the Tax Commissioner to provide a schedule or
20 schedules of the amounts to be collected from the consumer or user
21 to effectuate the computation and collection of the tax imposed
22 by the Nebraska Revenue Act of 1967. Such schedule or schedules
23 shall provide that the tax shall be collected from the consumer
24 or user uniformly on sales according to brackets based on sales
25 prices of the item or items. Retailers may compute the tax due on

1 any transaction on an item or an invoice basis. The rounding rule
2 provided in section 77-3,117 applies.

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

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

22 (g) In the rental or lease of automobiles, trucks,
23 trailers, semitrailers, and truck-tractors as defined in the Motor
24 Vehicle Registration Act, the tax shall be collected by the lessor
25 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

1 (iv) The Tax Commissioner by rule and regulation shall
2 prescribe the contents and form of the notice of election, a
3 procedure for the determination of the tax base of vehicles which
4 are under an existing lease at the time such election becomes
5 effective, the method and manner for terminating such election, and
6 such other rules and regulations as may be necessary for the proper
7 administration of this subdivision.

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

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

1 through the date of payment and sales tax penalties as provided in
2 the Nebraska Revenue Act of 1967. The county treasurer, designated
3 county official, or Department of Motor Vehicles shall report and
4 remit the tax so collected to the Tax Commissioner by the fifteenth
5 day of the following month. The county treasurer or designated
6 county official shall deduct and withhold for the use of the county
7 general fund, from all amounts required to be collected under
8 this subsection, the collection fee permitted to be deducted by
9 any retailer collecting the sales tax. The Department of Motor
10 Vehicles shall deduct, withhold, and deposit in the Motor Carrier
11 Division Cash Fund the collection fee permitted to be deducted by
12 any retailer collecting the sales tax. The collection fee shall
13 be forfeited if the county treasurer, designated county official,
14 or Department of Motor Vehicles violates any rule or regulation
15 pertaining to the collection of the use tax.

16 (j)(i) The tax imposed by this section on the sale of a
17 motorboat as defined in section 37-1204 shall be the liability of
18 the purchaser. The tax shall be collected by the county treasurer
19 or designated county official at the time the purchaser makes
20 application for the registration of the motorboat. At the time
21 of the sale of a motorboat, the seller shall (A) state on the
22 sales invoice the dollar amount of the tax imposed under this
23 section and (B) furnish to the purchaser a certified statement of
24 the transaction, in such form as the Tax Commissioner prescribes,
25 setting forth as a minimum the total sales price, the allowance for

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

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

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

10 (k) The Tax Commissioner shall adopt and promulgate
11 necessary rules and regulations for determining the amount subject
12 to the taxes imposed by this section so as to insure that the
13 full amount of any applicable tax is paid in cases in which a
14 sale is made of which a part is subject to the taxes imposed by
15 this section and a part of which is not so subject and a separate
16 accounting is not practical or economical.

17 (2) A use tax is hereby imposed on the storage, use, or
18 other consumption in this state of property purchased, leased, or
19 rented from any retailer and on any transaction the gross receipts
20 of which are subject to tax under subsection (1) of this section
21 on or after June 1, 1967, for storage, use, or other consumption
22 in this state at the rate set as provided in subsection (1) of
23 this section on the sales price of the property or, in the case of
24 leases or rentals, of the lease or rental prices.

25 (a) Every person storing, using, or otherwise consuming

1 in this state property purchased from a retailer or leased or
2 rented from another person for such purpose shall be liable for the
3 use tax at the rate in effect when his or her liability for the
4 use tax becomes certain under the accounting basis used to maintain
5 his or her books and records. His or her liability shall not be
6 extinguished until the use tax has been paid to this state, except
7 that a receipt from a retailer engaged in business in this state
8 or from a retailer who is authorized by the Tax Commissioner, under
9 such rules and regulations as he or she may prescribe, to collect
10 the sales tax and who is, for the purposes of the Nebraska Revenue
11 Act of 1967 relating to the sales tax, regarded as a retailer
12 engaged in business in this state, which receipt is given to the
13 purchaser pursuant to subdivision (b) of this subsection, shall be
14 sufficient to relieve the purchaser from further liability for the
15 tax to which the receipt refers.

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

22 (c) The Tax Commissioner, in order to facilitate the
23 proper administration of the use tax, may designate such person or
24 persons as he or she may deem necessary to be use tax collectors
25 and delegate to such persons such authority as is necessary to

1 collect any use tax which is due and payable to the State of
2 Nebraska. The Tax Commissioner may require of all persons so
3 designated a surety bond in favor of the State of Nebraska to
4 insure against any misappropriation of state funds so collected.
5 The Tax Commissioner may require any tax official, city, county, or
6 state, to collect the use tax on behalf of the state. All persons
7 designated to or required to collect the use tax shall account for
8 such collections in the manner prescribed by the Tax Commissioner.
9 Nothing in this subdivision shall be so construed as to prevent the
10 Tax Commissioner or his or her employees from collecting any use
11 taxes due and payable to the State of Nebraska.

12 (d) All persons designated to collect the use tax and all
13 persons required to collect the use tax shall forward the total of
14 such collections to the Tax Commissioner at such time and in such
15 manner as the Tax Commissioner may prescribe. For all use taxes
16 collected prior to October 1, 2002, such collectors of the use tax
17 shall deduct and withhold from the amount of taxes collected two
18 and one-half percent of the first three thousand dollars remitted
19 each month and one-half of one percent of all amounts in excess
20 of three thousand dollars remitted each month as reimbursement
21 for the cost of collecting the tax. For use taxes collected on
22 and after October 1, 2002, such collectors of the use tax shall
23 deduct and withhold from the amount of taxes collected two and
24 one-half percent of the first three thousand dollars remitted each
25 month as reimbursement for the cost of collecting the tax. Any

1 such deduction shall be forfeited to the State of Nebraska if such
2 collector violates any rule, regulation, or directive of the Tax
3 Commissioner.

4 (e) For the purpose of the proper administration of the
5 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,
6 it shall be presumed that property sold, leased, or rented by any
7 person for delivery in this state is sold, leased, or rented for
8 storage, use, or other consumption in this state until the contrary
9 is established. The burden of proving the contrary is upon the
10 person who purchases, leases, or rents the property.

11 (f) For the purpose of the proper administration of the
12 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,
13 for the sale of property to an advertising agency which purchases
14 the property as an agent for a disclosed or undisclosed principal,
15 the advertising agency is and remains liable for the sales and
16 use tax on the purchase the same as if the principal had made the
17 purchase directly.

18 Sec. 16. Section 77-2703.01, Revised Statutes Supplement,
19 2007, is amended to read:

20 77-2703.01 (1) The determination of whether a sale or use
21 of property or the provision of services is in this state, in a
22 municipality that has adopted a tax under the Local Option Revenue
23 Act, or in a county that has adopted a tax under section 13-319
24 shall be governed by the sourcing rules in sections 77-2703.01 to
25 77-2703.04.

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

4 (3) When the property or service is not received by the
5 purchaser at a business location of the retailer, the sale is
6 sourced to the location where receipt by the purchaser or the
7 purchaser's donee, designated as such by the purchaser, occurs,
8 including the location indicated by instructions for delivery to
9 the purchaser or donee, known to the retailer.

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

16 (5) When subsection (2), (3), or (4) of this section does
17 not apply, the sale is sourced to the location indicated by an
18 address for the purchaser obtained during the consummation of the
19 sale, including the address of a purchaser's payment instrument, if
20 no other address is available, when use of this address does not
21 constitute bad faith.

22 (6) When subsection (2), (3), (4), or (5) of this section
23 does not apply, including the circumstance in which the retailer
24 is without sufficient information to apply the rules in any such
25 subsection, then the location will be determined by the address

1 from which property was shipped, from which the digital good was
2 first available for transmission by the retailer, or from which the
3 service was provided disregarding for these purposes any location
4 that merely provided the digital transfer of the product sold.

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

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

1 computation of sales or use tax on leases or rentals based on a
2 lump-sum or accelerated basis or on the acquisition of property
3 for lease.

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

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

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

20 This subsection does not affect the imposition or
21 computation of sales or use tax on leases or rentals based on a
22 lump-sum or accelerated basis or on the acquisition of property
23 for lease.

24 (9) The retail sale, including lease or rental, of
25 transportation equipment shall be sourced the same as a retail sale

1 in accordance with subsections (2) through (6) of this section.

2 Transportation equipment means any of the following:

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

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

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

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

21 (10) For purposes of this section, receive and receipt
22 mean taking possession of tangible personal property, making first
23 use of services, or taking possession or making first use of
24 digital goods, whichever comes first. The terms receive and receipt
25 do not include possession by a shipping company on behalf of the

1 purchaser. For purposes of sourcing detective services subject to
2 tax under subdivision ~~(10)(h)~~ (4)(h) of section 77-2701.16, making
3 first use of a service shall be deemed to be at the individual's
4 residence, in the case of a customer who is an individual, or
5 at the principal place of business, in the case of a business
6 customer.

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

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

16 Sec. 17. Section 77-2704.09, Revised Statutes Supplement,
17 2007, is amended to read:

18 77-2704.09 (1) Sales and use taxes shall not be imposed
19 on the gross receipts from the sale, lease, or rental of and
20 the storage, use, or other consumption in this state of (a)
21 insulin, (b) drugs, not including over-the-counter drugs, when
22 sold for a patient's use under a prescription, and (c) the
23 following when sold for a patient's use under a prescription and
24 which are of the type eligible for coverage under the medical
25 assistance program established pursuant to the Medical Assistance

1 Act: ~~Drugs, not including over-the-counter drugs, durable~~ Durable
2 medical equipment; home medical supplies; prosthetic devices;
3 oxygen; oxygen equipment; and mobility enhancing equipment.

4 (2) For purposes of this section:

5 (a) Drug means a compound, substance, preparation, and
6 component of a compound, substance, or preparation, other than food
7 and food ingredients, dietary supplements, or alcoholic beverages:

8 (i) Recognized in the official United States
9 Pharmacopoeia, official Homeopathic Pharmacopoeia of the United
10 States, or official National Formulary, and any supplement to any
11 of them;

12 (ii) Intended for use in the diagnosis, cure, mitigation,
13 treatment, or prevention of disease; or

14 (iii) Intended to affect the structure or any function of
15 the body;

16 (b) Durable medical equipment means equipment which can
17 withstand repeated use, is primarily and customarily used to serve
18 a medical purpose, generally is not useful to a person in the
19 absence of illness or injury, is appropriate for use in the home,
20 and is not worn in or on the body. Durable medical equipment
21 includes repair and replacement parts for such equipment;

22 (c) Home medical supplies means supplies primarily and
23 customarily used to serve a medical purpose which are appropriate
24 for use in the home and are generally not useful to a person in the
25 absence of illness or injury;

1 (d) Mobility enhancing equipment means equipment which
2 is primarily and customarily used to provide or increase the
3 ability to move from one place to another, which is not generally
4 used by persons with normal mobility, and which is appropriate
5 for use either in a home or a motor vehicle. Mobility enhancing
6 equipment includes repair and replacement parts for such equipment.
7 Mobility enhancing equipment does not include any motor vehicle or
8 equipment on a motor vehicle normally provided by a motor vehicle
9 manufacturer;

10 (e) Over-the-counter drug means a drug that contains a
11 label that identifies the product as a drug as required by 21
12 C.F.R. 201.66, as such regulation existed on January 1, 2003.
13 The over-the-counter drug label includes a drug facts panel or
14 a statement of the active ingredients with a list of those
15 ingredients contained in the compound, substance, or preparation;

16 (f) Oxygen equipment means oxygen cylinders, cylinder
17 transport devices including sheaths and carts, cylinder studs and
18 support devices, regulators, flowmeters, tank wrenches, oxygen
19 concentrators, liquid oxygen base dispensers, liquid oxygen
20 portable dispensers, oxygen tubing, nasal cannulas, face masks,
21 oxygen humidifiers, and oxygen fittings and accessories;

22 (g) Prescription means an order, formula, or recipe
23 issued in any form of oral, written, electronic, or other means of
24 transmission by a duly licensed practitioner authorized under the
25 Uniform Credentialing Act; and

1 (h) Prosthetic devices means a replacement, corrective,
2 or supportive device worn on or in the body to artificially
3 replace a missing portion of the body, prevent or correct physical
4 deformity or malfunction, or support a weak or deformed portion
5 of the body, and includes any supplies used with such device and
6 repair and replacement parts.

7 Sec. 18. Section 77-2704.26, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-2704.26 Sales and use taxes shall not be imposed on
10 the gross receipts from the sale, lease, or rental of and the
11 storage, use, or other consumption in this state of an aircraft
12 delivered in this state to an individual who is a resident of
13 another state or any other person who has a business location in
14 another state when the aircraft is not to be registered or based in
15 this state and it will not remain in this state more than ten days.
16 Sales and use taxes shall not be imposed on the gross receipts from
17 a service listed in subsection ~~(10)~~ (4) of section 77-2701.16 that
18 is rendered to an aircraft brought into this state by an individual
19 who is a resident of another state or any other person who has a
20 business location in another state when the aircraft is not to be
21 registered or based in this state and it will not remain in this
22 state more than ten days after the service is completed.

23 Sec. 19. Section 77-2704.45, Reissue Revised Statutes of
24 Nebraska, is amended to read:

25 77-2704.45 Sales and use taxes shall not be imposed on

1 the gross receipts from the sale, lease, or rental of and the
2 storage, use, or other consumption in this state of:

3 (1) Property which will enter into and become an
4 ingredient or component part of property manufactured, processed,
5 or fabricated for ultimate sale at retail; or

6 (2) A service listed in subsection ~~(10)~~ (4) of section
7 77-2701.16 which will become an ingredient or component part of a
8 service listed in subsection ~~(10)~~ (4) of section 77-2701.16 for
9 ultimate sale at retail.

10 Sec. 20. Section 77-2704.46, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 77-2704.46 Sales and use taxes shall not be imposed on
13 the gross receipts from the sale, lease, or rental of and the
14 storage, use, or other consumption in this state of:

15 (1) Any form of animal life of a kind the products of
16 which ordinarily constitute food for human consumption. Animal life
17 includes live poultry, other species of game birds subject to
18 permit and regulation by the Game and Parks Commission, and ~~or~~
19 livestock on the hoof when sales are made by the grower, producer,
20 feeder, or any person engaged in the business of bartering, buying,
21 or selling live poultry, other species of game birds subject
22 to permit and regulation by the Game and Parks Commission, or
23 livestock on the hoof;

24 (2) Seeds and annual plants, the products of which
25 ordinarily constitute food for human consumption and which seeds

1 and annual plants are sold to commercial producers of such
2 products, and seed legumes, seed grasses, and seed grains when
3 sold to be used exclusively for agricultural purposes;

4 (3) Agricultural chemicals, adjuvants, surfactants,
5 bonding agents, clays, oils, and any other additives or
6 compatibility agents for use in commercial agriculture and applied
7 to land or crops and sold in any tax period that has not been
8 closed by the applicable statute of limitations. Agricultural
9 chemicals does not mean chemicals, adjuvants, surfactants, bonding
10 agents, clays, oils, and any other additives or compatibility
11 agents applied to harvested grains stored in commercial elevators;
12 or

13 (4) Oxygen for use in aquaculture as defined in section
14 2-3804.01.

15 Sec. 21. Section 77-2704.57, Revised Statutes Supplement,
16 2007, is amended to read:

17 77-2704.57 (1) Sales and use tax shall not be imposed
18 on the gross receipts from the sale, lease, or rental of personal
19 property for use in a C-BED project or community-based energy
20 development project. This exemption shall be conditioned upon
21 filing requirements for the exemption as imposed by the Tax
22 Commissioner. The requirements imposed by the Tax Commissioner
23 shall be related to ensuring that the property purchased qualifies
24 for the exemption. The Tax Commissioner may require the filing
25 of the documents showing compliance with section 70-1907, the

1 organization of the project, the distribution of the payments,
 2 the power purchase agreements, the project pro forma, articles of
 3 incorporation, operating agreements, and any amendments or changes
 4 to these documents during the life of the power purchase agreement.

5 (2) The Tax Commissioner shall notify an electric utility
 6 that has a power purchase agreement with a C-BED project if
 7 there is a change in project ownership which makes the project no
 8 longer eligible as a C-BED project. Purchase of a C-BED project
 9 by an electric utility prior to the end of the power purchase
 10 agreement disqualifies the C-BED project for the exemption, but the
 11 Department of Revenue may not recover the amount of the sales and
 12 use tax that was not paid by the project prior to the purchase.

13 (3) For purposes of this section:

14 ~~(1)~~ (a) C-BED project or community-based energy
 15 development project means a new wind energy project that:

16 ~~(a)~~ (i) Has an ownership structure as follows:

17 ~~(i)~~ (A) For a C-BED project that consists of more than
 18 two turbines, ~~is owned by~~ has one or more qualified owners with
 19 no single individual qualified owner owning directly or indirectly
 20 more than fifteen percent of the project and with at least
 21 thirty-three percent of the gross power purchase agreement payments
 22 flowing to the qualified owner or owners or local community; or

23 ~~(ii)~~ (B) For a C-BED project that consists of one or two
 24 turbines, ~~is owned by~~ has one or more qualified owners with at
 25 least thirty-three percent of the gross power purchase agreement

1 payments flowing to a qualified owner or owners or local community;
 2 and

3 ~~(b)~~ (ii) Has a resolution of support adopted:

4 ~~(i)~~ (A) By the county board of each county in which the
 5 C-BED project is to be located; or

6 ~~(ii)~~ (B) By the tribal council for a C-BED project
 7 located within the boundaries of an Indian reservation;

8 ~~(2)~~ (b) New wind energy project includes any materials
 9 used to manufacture, install, construct, repair, or replace a
 10 device, such as a wind charger, windmill, or wind turbine, that
 11 converts wind energy to a form of usable energy, and means
 12 any tangible personal property incorporated into the manufacture,
 13 installation, construction, repair, or replacement of a device,
 14 such as a wind charger, windmill, or wind turbine, which is used to
 15 convert wind energy to electrical energy or for the transmission of
 16 electricity to the purchaser; and

17 ~~(3)~~ (c) Qualified owner means:

18 ~~(a)~~ (i) A Nebraska resident;

19 ~~(b)~~ (ii) A limited liability company that is organized
 20 under the Limited Liability Company Act and that is entirely made
 21 up of members who are Nebraska residents;

22 ~~(c)~~ (iii) A Nebraska nonprofit corporation organized
 23 under the Nebraska Nonprofit Corporation Act;

24 ~~(d)~~ (iv) An electric supplier as defined in section
 25 70-1001.01, except that ownership in a single C-BED project is

1 limited to no more than:

2 ~~(i)~~ (A) Fifteen percent either directly or indirectly by
3 a single electric supplier; and

4 ~~(ii)~~ (B) A combined total of twenty-five percent
5 ownership either directly or indirectly by multiple electric
6 suppliers; or

7 ~~(e)~~ (v) A tribal council.

8 (4) Power purchase agreement payments are the total
9 amount of payments during the life of the agreement. For the
10 purposes of determining eligibility of the project, an estimate of
11 the payments and their recipients shall be used.

12 (5) Payments to the local community include, but are not
13 limited to, lease payments to property owners on whose property a
14 turbine is located, wind energy easement payments, and real and
15 personal property tax receipts from the C-BED project.

16 (6) The Department of Revenue may examine the actual
17 payments and the distribution of the payments to determine if the
18 projected distributions were met. If the payment distributions to
19 qualified owners do not meet the requirements of this section, the
20 department may recover the amount of the sales or use tax that was
21 not paid by the project at any time up until the end of three years
22 after the end of the power purchase agreement.

23 (7) At any time prior to the end of the power purchase
24 agreements, the project may voluntarily surrender the exemption
25 granted by the Tax Commissioner and pay the amount of sales and use

1 tax that would have otherwise have been due.

2 (8) The amount of the tax due under either subsection
3 (6) or (7) of this section shall be increased by interest at the
4 rate specified in section 45-104.02, as such rate may from time to
5 time be adjusted, from the date the tax would have been due if no
6 exemption was granted until the date paid.

7 Sec. 22. Sales and use taxes shall not be imposed on
8 the gross receipts from the sale, use, or other consumption in
9 this state of depositions, bills of exceptions, and transcripts or
10 copies of such depositions, bills of exceptions, and transcripts
11 prepared and sold by a court reporter.

12 Sec. 23. Sales and use taxes shall not be imposed on the
13 gross receipts from the sale, use, or other consumption in this
14 state of copies of medical records provided to the patient or a
15 person holding such patient's power of attorney for health care.

16 Sec. 24. Section 77-2705, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-2705 (1) Except as provided in subsection (10) of this
19 section, every retailer shall register with the Tax Commissioner
20 and give:

21 (a) The name and address of all agents operating in this
22 state;

23 (b) The location of all distribution or sales houses or
24 offices or other places of business in this state;

25 (c) The name and address of any officer, director,

1 partner, limited liability company member, or employee, other than
2 an employee whose duties are purely ministerial in nature, or any
3 person with a substantial interest in the applicant, who is or who
4 will be responsible for the collection or remittance of the sales
5 tax;

6 ~~(e)~~ (d) Such other information as the Tax Commissioner
7 may require; and

8 ~~(d)~~ (e) If the retailer is an individual, his or her
9 social security number.

10 (2) Every person furnishing public utility service as
11 defined in subsection ~~(8)~~ (2) of section 77-2701.16 shall register
12 with the Tax Commissioner and give:

13 (a) The address of each office open to the public in
14 which such public utility service business is transacted with
15 consumers; and

16 (b) Such other information as the Tax Commissioner may
17 require.

18 (3) It shall be unlawful for any person to engage in or
19 transact business as a seller within this state after June 1, 1967,
20 unless a permit or permits shall have been issued to him or her
21 as prescribed in this section. Every person desiring to engage in
22 or to conduct business as a seller within this state shall file
23 with the Tax Commissioner an application for a permit for each
24 place of business. There shall be no charge to the retailer for
25 the application for or issuance of a permit except as otherwise

1 provided in this section.

2 (4) Every application for a permit shall:

3 (a) Be made upon a form prescribed by the Tax
4 Commissioner;

5 (b) Set forth the name under which the applicant
6 transacts or intends to transact business and the location of
7 his or her place or places of business;

8 (c) Set forth such other information as the Tax
9 Commissioner may require; and

10 (d) Be signed by the owner and include his or her social
11 security number if he or she is a natural person; in the case
12 of an association or partnership, by a member or partner; in the
13 case of a limited liability company, by a member or some person
14 authorized by the limited liability company to sign such kinds of
15 applications; and in the case of a corporation, by an executive
16 officer or some person authorized by the corporation to sign such
17 kinds of applications.

18 (5) After compliance with subsections (1) through (4) of
19 this section by the applicant, the Tax Commissioner shall grant
20 and issue to each applicant a separate permit for each place of
21 business within the state. A permit shall not be assignable and
22 shall be valid only for the person in whose name it is issued and
23 for the transaction of business at the place designated therein.
24 It shall at all times be conspicuously displayed at the place for
25 which issued and shall be valid and effective until revoked by the

1 Tax Commissioner.

2 (6) (a) Whenever the holder of a permit issued under
3 subsection (5) of this section or any person required to be
4 identified in subdivision (1) (c) of this section (i) fails to
5 comply with any provision of the Nebraska Revenue Act of 1967
6 relating to the retail sales tax or with any rule or regulation of
7 the Tax Commissioner relating to such tax prescribed and adopted
8 under such act, (ii) fails to provide for inspection or audit
9 any book, record, document, or item required by law, rule, or
10 regulation, or (iii) makes a misrepresentation of or fails to
11 disclose a material fact to the Department of Revenue, the Tax
12 Commissioner upon hearing, after giving the person twenty days'
13 notice in writing specifying the time and place of hearing and
14 requiring him or her to show cause why his or her permit or permits
15 should not be revoked, may revoke or suspend any one or more of
16 the permits held by the person. The Tax Commissioner shall give to
17 the person written notice of the suspension or revocation of any
18 of his or her permits. The notices may be served personally or by
19 mail in the manner prescribed for service of notice of a deficiency
20 determination.

21 (b) The Tax Commissioner shall have the power to restore
22 permits which have been revoked but shall not issue a new permit
23 after the revocation of a permit unless he or she is satisfied that
24 the former holder of the permit will comply with the provisions
25 of such act relating to the retail sales tax and the regulations

1 of the Tax Commissioner. A seller whose permit has been previously
2 suspended or revoked under this subsection shall pay the Tax
3 Commissioner a fee of twenty-five dollars for the renewal or
4 issuance of a permit in the event of a first revocation and fifty
5 dollars for renewal after each successive revocation.

6 (c) The action of the Tax Commissioner may be appealed
7 by the taxpayer in the same manner as a final deficiency
8 determination.

9 (7) For the purpose of more efficiently securing the
10 payment, collection, and accounting for the sales and use taxes
11 and for the convenience of the retailer in collecting the sales
12 tax, it shall be the duty of the Tax Commissioner to formulate
13 and promulgate appropriate rules and regulations providing a form
14 and method for the registration of exempt purchases and the
15 documentation of exempt sales.

16 (8) If any person, firm, corporation, association, or
17 agent thereof presents an exempt sale certificate to the seller
18 for property which is purchased by a taxpayer or for a use other
19 than those enumerated in the Nebraska Revenue Act of 1967 as
20 exempted from the computation of sales and use taxes, the Tax
21 Commissioner may, in addition to other penalties provided by law,
22 impose, assess, and collect from the purchaser or the agent thereof
23 a penalty of one hundred dollars or ten times the tax, whichever
24 amount is larger, for each instance of such presentation and misuse
25 of an exempt sale certificate. Such amount shall be in addition to

1 any tax, interest, or penalty otherwise imposed.

2 (9) Any report, name, or information which is supplied
3 to the Tax Commissioner regarding a violation specified in this
4 section, including the identity of the informer, shall be subject
5 to the pertinent provisions regarding wrongful disclosure in
6 section 77-2711.

7 (10) Pursuant to the streamlined sales and use tax
8 agreement, the state shall participate in an online registration
9 system that will allow retailers to register in all the member
10 states. The state hereby agrees to honor and abide by the retailer
11 registration decisions made by the governing board pursuant to the
12 agreement.

13 Sec. 25. Section 77-2708, Revised Statutes Cumulative
14 Supplement, 2006, is amended to read:

15 77-2708 (1)(a) The sales and use taxes imposed by the
16 Nebraska Revenue Act of 1967 shall be due and payable to the
17 Tax Commissioner monthly on or before the twenty-fifth day of the
18 month next succeeding each monthly period unless otherwise provided
19 pursuant to the Nebraska Revenue Act of 1967.

20 (b)(i) On or before the twenty-fifth day of the month
21 following each monthly period or such other period as the Tax
22 Commissioner may require, a return for such period, along with all
23 taxes due, shall be filed with the Tax Commissioner in such form
24 and content as the Tax Commissioner may prescribe and containing
25 such information as the Tax Commissioner deems necessary for the

1 proper administration of the Nebraska Revenue Act of 1967. The Tax
2 Commissioner, if he or she deems it necessary in order to insure
3 payment to or facilitate the collection by the state of the amount
4 of sales or use taxes due, may require returns and payment of the
5 amount of such taxes for periods other than monthly periods in the
6 case of a particular seller, retailer, or purchaser, as the case
7 may be. The Tax Commissioner shall by rule and regulation require
8 reports and tax payments from sellers, retailers, or purchasers
9 depending on their yearly tax liability. Except as required by
10 the streamlined sales and use tax agreement, annual returns shall
11 be required if such sellers', retailers', or purchasers' yearly
12 tax liability is less than nine hundred dollars, quarterly returns
13 shall be required if their yearly tax liability is nine hundred
14 dollars or more and less than three thousand dollars, and monthly
15 returns shall be required if their yearly tax liability is three
16 thousand dollars or more. The Tax Commissioner shall have the
17 discretion to allow an annual return for seasonal retailers, even
18 when their yearly tax liability exceeds the amounts listed in this
19 subdivision.

20 The Tax Commissioner may adopt and promulgate rules
21 and regulations to allow annual, semiannual, or quarterly returns
22 for any retailer making monthly remittances or payments of sales
23 and use taxes by electronic funds transfer or for any retailer
24 remitting tax to the state pursuant to the streamlined sales and
25 use tax agreement. Such rules and regulations may establish a

1 method of determining the amount of the payment that will result in
2 substantially all of the tax liability being paid each quarter. At
3 least once each year, the difference between the amount paid and
4 the amount due shall be reconciled. If the difference is more than
5 ten percent of the amount paid, a penalty of fifty percent of the
6 unpaid amount shall be imposed.

7 (ii) For purposes of the sales tax, a return shall be
8 filed by every retailer liable for collection from a purchaser and
9 payment to the state of the tax, except that a combined sales tax
10 return may be filed for all licensed locations which are subject
11 to common ownership. For purposes of this subdivision, common
12 ownership means the same person or persons own eighty percent or
13 more of each licensed location. For purposes of the use tax, a
14 return shall be filed by every retailer engaged in business in this
15 state and by every person who has purchased property, the storage,
16 use, or other consumption of which is subject to the use tax, but
17 who has not paid the use tax due to a retailer required to collect
18 the tax.

19 (iii) The Tax Commissioner may require that returns be
20 signed by the person required to file the return or by his or her
21 duly authorized agent but need not be verified by oath.

22 (iv) A taxpayer who keeps his or her regular books
23 and records on a cash basis, an accrual basis, or any generally
24 recognized accounting basis which correctly reflects the operation
25 of the business may file the sales and use tax returns required

1 by the Nebraska Revenue Act of 1967 on the same accounting basis
2 that is used for the regular books and records, except that on
3 credit, conditional, and installment sales, the retailer who keeps
4 his or her books on an accrual basis may report such sales on
5 the cash basis and pay the tax upon the collections made during
6 each month. If a taxpayer transfers, sells, assigns, or otherwise
7 disposes of an account receivable, he or she shall be deemed
8 to have received the full balance of the consideration for the
9 original sale and shall be liable for the remittance of the sales
10 tax on the balance of the total sale price not previously reported,
11 except that such transfer, sale, assignment, or other disposition
12 of an account receivable by a retailer to a subsidiary shall not be
13 deemed to require the retailer to pay the sales tax on the credit
14 sale represented by the account transferred prior to the time the
15 customer makes payment on such account. If the subsidiary does not
16 obtain a Nebraska sales tax permit, the taxpayer shall obtain a
17 surety bond in favor of the State of Nebraska to insure payment
18 of the tax and any interest and penalty imposed thereon under this
19 section in an amount not less than two times the amount of tax
20 payable on outstanding accounts receivable held by the subsidiary
21 as of the end of the prior calendar year. Failure to obtain either
22 a sales tax permit or a surety bond in accordance with this section
23 shall result in the payment on the next required filing date of
24 all sales taxes not previously remitted. When the retailer has
25 adopted one basis or the other of reporting credit, conditional, or

1 installment sales and paying the tax thereon, he or she will not be
2 permitted to change from that basis without first having notified
3 the Tax Commissioner.

4 (c) Except as provided in the streamlined sales and use
5 tax agreement, the taxpayer required to file the return shall
6 deliver or mail any required return together with a remittance of
7 the net amount of the tax due to the office of the Tax Commissioner
8 on or before the required filing date. Failure to file the return,
9 filing after the required filing date, failure to remit the net
10 amount of the tax due, or remitting the net amount of the tax due
11 after the required filing date shall be cause for a penalty, in
12 addition to interest, of ten percent of the amount of tax not paid
13 by the required filing date or twenty-five dollars, whichever is
14 greater, unless the penalty is being collected under subdivision
15 (1)(i) or (1)(j)(i) of section 77-2703 by a county treasurer, a
16 designated county official, or the Department of Motor Vehicles, in
17 which case the penalty shall be five dollars.

18 (d) For all sales tax collected prior to October 1, 2002,
19 the taxpayer shall deduct and withhold, from the taxes otherwise
20 due from him or her on his or her tax return, two and one-half
21 percent of the first three thousand dollars remitted each month and
22 one-half of one percent of all amounts in excess of three thousand
23 dollars remitted each month to reimburse himself or herself for
24 the cost of collecting the tax. For all sales tax collected on
25 and after October 1, 2002, the taxpayer shall deduct and withhold,

1 from the taxes otherwise due from him or her on his or her
2 tax return, two and one-half percent of the first three thousand
3 dollars remitted each month to reimburse himself or herself for the
4 cost of collecting the tax. Taxpayers filing a combined return as
5 allowed by subdivision (1)(b)(ii) of this subsection shall compute
6 such collection fees on the basis of the receipts and liability of
7 each licensed location.

8 (2)(a) If the Tax Commissioner determines that any sales
9 or use tax amount, penalty, or interest has been paid more than
10 once, has been erroneously or illegally collected or computed,
11 or has been paid and the purchaser qualifies for a refund under
12 section 77-2708.01, the Tax Commissioner shall set forth that fact
13 in his or her records and the excess amount collected or paid may
14 be credited on any sales, use, or income tax amounts then due and
15 payable from the person under the Nebraska Revenue Act of 1967. Any
16 balance may be refunded to the person by whom it was paid or his or
17 her successors, administrators, or executors.

18 (b) No refund shall be allowed unless a claim therefor
19 is filed with the Tax Commissioner by the person who made the
20 overpayment or his or her attorney, executor, or administrator
21 within three years from the required filing date following the
22 close of the period for which the overpayment was made, within six
23 months after any determination becomes final under section 77-2709,
24 or within six months from the date of overpayment with respect
25 to such determinations, whichever of these three periods expires

1 later, unless the credit relates to a period for which a waiver has
2 been given. Failure to file a claim within the time prescribed in
3 this subsection shall constitute a waiver of any demand against the
4 state on account of overpayment.

5 (c) Every claim shall be in writing on forms prescribed
6 by the Tax Commissioner and shall state the specific amount and
7 grounds upon which the claim is founded. No refund shall be made in
8 any amount less than two dollars.

9 (d) The Tax Commissioner shall allow or disallow
10 a claim within one hundred eighty days after it has been
11 filed. If A request for a hearing shall constitute a waiver
12 of the one-hundred-eighty-day period. The claimant and the Tax
13 Commissioner may also agree to extend the one-hundred-eighty-day
14 period. If a hearing has not been requested and the Tax
15 Commissioner has neither allowed nor disallowed a claim within such
16 either the one hundred eighty days or the period agreed to by the
17 claimant and the Tax Commissioner, the claim shall be deemed to
18 have been allowed.

19 (e) Within thirty days after disallowing any claim in
20 whole or in part, the Tax Commissioner shall serve notice of his or
21 her action on the claimant in the manner prescribed for service of
22 notice of a deficiency determination.

23 (f) Within thirty days after the mailing of the notice
24 of the Tax Commissioner's action upon a claim filed pursuant
25 to the Nebraska Revenue Act of 1967, the action of the Tax

1 Commissioner shall be final unless the taxpayer seeks review of the
2 Tax Commissioner's determination as provided in section 77-27,127.

3 (g) Upon the allowance of a credit or refund of any
4 sum erroneously or illegally assessed or collected, of any penalty
5 collected without authority, or of any sum which was excessive
6 or in any manner wrongfully collected, interest shall be allowed
7 and paid on the amount of such credit or refund at the rate
8 specified in section 45-104.02, as such rate may from time to time
9 be adjusted, from the date such sum was paid or from the date the
10 return was required to be filed, whichever date is later, to the
11 date of the allowance of the refund or, in the case of a credit,
12 to the due date of the amount against which the credit is allowed,
13 but in the case of a voluntary and unrequested payment in excess
14 of actual tax liability or a refund under section 77-2708.01, no
15 interest shall be allowed when such excess is refunded or credited.

16 (h) No suit or proceeding shall be maintained in any
17 court for the recovery of any amount alleged to have been
18 erroneously or illegally determined or collected unless a claim
19 for refund or credit has been duly filed.

20 (i) The Tax Commissioner may recover any refund or part
21 thereof which is erroneously made and any credit or part thereof
22 which is erroneously allowed by issuing a deficiency determination
23 within one year from the date of refund or credit or within the
24 period otherwise allowed for issuing a deficiency determination,
25 whichever expires later.

1 (j)(i) Credit shall be allowed to the retailer,
2 contractor, or repairperson for sales or use taxes paid pursuant
3 to the Nebraska Revenue Act of 1967 on any deduction taken that
4 is attributed to bad debts not including interest. Bad debt has
5 the same meaning as in 26 U.S.C. 166, as such section existed
6 on January 1, 2003. However, the amount calculated pursuant to
7 26 U.S.C. 166 shall be adjusted to exclude: Financing charges
8 or interest; sales or use taxes charged on the purchase price;
9 uncollectible amounts on property that remains in the possession
10 of the seller until the full purchase price is paid; and expenses
11 incurred in attempting to collect any debt and repossessed
12 property.

13 (ii) Bad debts may be deducted on the return for the
14 period during which the bad debt is written off as uncollectible
15 in the claimant's books and records and is eligible to be deducted
16 for federal income tax purposes. A claimant who is not required
17 to file federal income tax returns may deduct a bad debt on a
18 return filed for the period in which the bad debt is written off
19 as uncollectible in the claimant's books and records and would be
20 eligible for a bad debt deduction for federal income tax purposes
21 if the claimant was required to file a federal income tax return.

22 (iii) If a deduction is taken for a bad debt and the
23 debt is subsequently collected in whole or in part, the tax on the
24 amount so collected must be paid and reported on the return filed
25 for the period in which the collection is made.

1 (iv) When the amount of bad debt exceeds the amount
2 of taxable sales for the period during which the bad debt is
3 written off, a refund claim may be filed within the otherwise
4 applicable statute of limitations for refund claims. The statute of
5 limitations shall be measured from the due date of the return on
6 which the bad debt could first be claimed.

7 (v) If filing responsibilities have been assumed by a
8 certified service provider, the service provider may claim, on
9 behalf of the retailer, any bad debt allowance provided by this
10 section. The certified service provider shall credit or refund the
11 full amount of any bad debt allowance or refund received to the
12 retailer.

13 (vi) For purposes of reporting a payment received on
14 a previously claimed bad debt, any payments made on a debt or
15 account are applied first proportionally to the taxable price of
16 the property or service and the sales tax thereon, and secondly to
17 interest, service charges, and any other charges.

18 (vii) In situations in which the books and records of the
19 party claiming the bad debt allowance support an allocation of the
20 bad debts among the member states in the streamlined sales and use
21 tax agreement, the state shall permit the allocation.

22 Sec. 26. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,
23 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, and 27 of this act
24 become operative on October 1, 2008. Sections 17 and 28 of this act
25 become operative on December 1, 2008. The other section of this act

1 becomes operative on its effective date.

2 Sec. 27. Original sections 77-2701.32, 77-2704.26,
3 77-2704.45, 77-2704.46, and 77-2705, Reissue Revised Statutes of
4 Nebraska, section 77-2708, Revised Statutes Cumulative Supplement,
5 2006, and sections 70-1903, 70-1904, 70-1905, 70-1907, 77-2701,
6 77-2701.04, 77-2701.16, 77-2701.34, 77-2703, 77-2703.01, and
7 77-2704.57, Revised Statutes Supplement, 2007, are repealed.

8 Sec. 28. Original section 77-2704.09, Revised Statutes
9 Supplement, 2007, is repealed.