

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 331**

Introduced by Janssen, 15; Dierks, 40; at the request of the Governor

Read first time January 11, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 30-103.01, 77-381, 77-2039, 77-3307, 77-3310, and  
3 77-3313, Reissue Revised Statutes of Nebraska, and  
4 sections 30-2209, 30-2352, 77-2701.10, 77-2701.16,  
5 77-2701.34, 77-2703, 77-2703.01, 77-2704.33, 77-2704.55,  
6 77-2715.02, 77-2716.01, and 77-2716.03, Revised Statutes  
7 Cumulative Supplement, 2006; to eliminate the estate  
8 tax and taxation of construction services; to change  
9 income tax calculations; to harmonize provisions; to  
10 provide operative dates; to repeal the original sections;  
11 and to outright repeal sections 30-24,114, 77-2040,  
12 77-2101, 77-2101.02, 77-2102, 77-2104, 77-2105, 77-2106,  
13 77-2106.01, 77-2106.02, 77-2108, 77-2109, 77-2109.01,  
14 77-2110, 77-2111, 77-2112, 77-2113, 77-2114, and 77-2116,

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1           Reissue Revised Statutes of Nebraska, and sections  
2           77-2101.01, 77-2101.03, 77-2115, and 77-2701.45, Revised  
3           Statutes Cumulative Supplement, 2006.  
4   Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 30-103.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           30-103.01 The interest of any surviving spouse in any  
4 estate passing under Chapter 30, article 23, parts 1, 2, and 4,  
5 shall be determined prior to the payment of any ~~federal or state~~  
6 estate taxes, and shall not be subject to or diminished by any debt  
7 or charge against such estate by reason of any ~~such federal or~~  
8 state estate tax.

9           Sec. 2. Section 30-2209, Revised Statutes Cumulative  
10 Supplement, 2006, is amended to read:

11           30-2209 Subject to additional definitions contained in  
12 the subsequent articles which are applicable to specific articles  
13 or parts, and unless the context otherwise requires, in the  
14 Nebraska Probate Code:

15           (1) Application means a written request to the registrar  
16 for an order of informal probate or appointment under part 3 of  
17 Article 24.

18           (2) Beneficiary, as it relates to trust beneficiaries,  
19 includes a person who has any present or future interest, vested  
20 or contingent, and also includes the owner of an interest by  
21 assignment or other transfer, and as it relates to a charitable  
22 trust includes any person entitled to enforce the trust.

23           (3) Child includes any individual entitled to take as  
24 a child under the code by intestate succession from the parent  
25 whose relationship is involved and excludes any person who is only

1 a stepchild, a foster child, or a grandchild or any more remote  
2 descendant.

3 (4) Claim, in respect to estates of decedents and  
4 protected persons, includes liabilities of the decedent or  
5 protected person whether arising in contract, in tort or otherwise,  
6 and liabilities of the estate which arise at or after the death of  
7 the decedent or after the appointment of a conservator, including  
8 funeral expenses and expenses of administration. The term does not  
9 include estate or inheritance taxes, demands or disputes regarding  
10 title of a decedent or protected person to specific assets alleged  
11 to be included in the estate.

12 (5) Court means the court or branch having jurisdiction  
13 in matters relating to the affairs of decedents. This court in this  
14 state is known as county court or, for purposes of guardianship  
15 of a juvenile over which a separate juvenile court already has  
16 jurisdiction, the county court or separate juvenile court.

17 (6) Conservator means a person who is appointed by a  
18 court to manage the estate of a protected person.

19 (7) Devise, when used as a noun, means a testamentary  
20 disposition of real or personal property and, when used as a verb,  
21 means to dispose of real or personal property by will.

22 (8) Devisee means any person designated in a will to  
23 receive a devise. In the case of a devise to an existing trust or  
24 trustee, or to a trustee on trust described by will, the trust or  
25 trustee is the devisee and the beneficiaries are not devisees.

1           (9) Disability means cause for a protective order as  
2 described by section 30-2630.

3           (10) Disinterested witness to a will means any individual  
4 who acts as a witness to a will and is not an interested witness  
5 to such will.

6           (11) Distributee means any person who has received  
7 property of a decedent from his or her personal representative  
8 other than as a creditor or purchaser. A testamentary trustee  
9 is a distributee only to the extent of distributed assets or  
10 increment thereto remaining in his or her hands. A beneficiary  
11 of a testamentary trust to whom the trustee has distributed  
12 property received from a personal representative is a distributee  
13 of the personal representative. For purposes of this provision,  
14 testamentary trustee includes a trustee to whom assets are  
15 transferred by will, to the extent of the devised assets.

16           (12) Estate includes the property of the decedent, trust,  
17 or other person whose affairs are subject to the Nebraska Probate  
18 Code as originally constituted and as it exists from time to time  
19 during administration.

20           (13) Exempt property means that property of a decedent's  
21 estate which is described in section 30-2323.

22           (14) Fiduciary includes personal representative,  
23 guardian, conservator, and trustee.

24           (15) Foreign personal representative means a personal  
25 representative of another jurisdiction.

1           (16) Formal proceedings mean those conducted before a  
2 judge with notice to interested persons.

3           (17) Guardian means a person who has qualified as  
4 a guardian of a minor or incapacitated person pursuant to  
5 testamentary or court appointment, but excludes one who is merely  
6 a guardian ad litem.

7           (18) Heirs mean those persons, including the surviving  
8 spouse, who are entitled under the statutes of intestate succession  
9 to the property of a decedent.

10          (19) Incapacitated person is as defined in section  
11 30-2601.

12          (20) Informal proceedings mean those conducted without  
13 notice to interested persons by an officer of the court acting as  
14 a registrar for probate of a will or appointment of a personal  
15 representative.

16          (21) Interested person includes heirs, devisees,  
17 children, spouses, creditors, beneficiaries, and any others having  
18 a property right in or claim against a trust estate or the  
19 estate of a decedent, ward, or protected person which may be  
20 affected by the proceeding. It also includes persons having  
21 priority for appointment as personal representative, and other  
22 fiduciaries representing interested persons. The meaning as it  
23 relates to particular persons may vary from time to time and must  
24 be determined according to the particular purposes of, and matter  
25 involved in, any proceeding.

1           (22) Interested witness to a will means any individual  
2 who acts as a witness to a will at the date of its execution and  
3 who is or would be entitled to receive any property thereunder  
4 if the testator then died under the circumstances existing at  
5 the date of its execution, but does not include any individual,  
6 merely because of such nomination, who acts as a witness to a  
7 will by which he or she is nominated as personal representative,  
8 conservator, guardian, or trustee.

9           (23) Issue of a person means all his or her lineal  
10 descendants of all generations, with the relationship of parent and  
11 child at each generation being determined by the definitions of  
12 child and parent contained in the Nebraska Probate Code.

13           (24) Lease includes an oil, gas, or other mineral lease.

14           (25) Letters include letters testamentary, letters  
15 of guardianship, letters of administration, and letters of  
16 conservatorship.

17           (26) Minor means an individual under nineteen years of  
18 age, but in case any person marries under the age of nineteen years  
19 his or her minority ends.

20           (27) Mortgage means any conveyance, agreement, or  
21 arrangement in which property is used as security.

22           (28) Nonresident decedent means a decedent who was  
23 domiciled in another jurisdiction at the time of his or her  
24 death.

25           (29) Notice means compliance with the requirements of

1 notice pursuant to subdivisions (a)(1) and (a)(2) of section  
2 30-2220.

3 (30) Organization includes a corporation, government, or  
4 governmental subdivision or agency, business trust, estate, trust,  
5 partnership, limited liability company, or association, two or more  
6 persons having a joint or common interest, or any other legal  
7 entity.

8 (31) Parent includes any person entitled to take, or who  
9 would be entitled to take if the child died without a will, as  
10 a parent under the Nebraska Probate Code, by intestate succession  
11 from the child whose relationship is in question and excludes any  
12 person who is only a stepparent, foster parent, or grandparent.

13 (32) Person means an individual, a corporation, an  
14 organization, a limited liability company, or other legal entity.

15 (33) Personal representative includes executor,  
16 administrator, successor personal representative, special  
17 administrator, and persons who perform substantially the same  
18 function under the law governing their status.

19 (34) Petition means a written request to the court for an  
20 order after notice.

21 (35) Proceeding includes action at law and suit in  
22 equity, but does not include a determination of inheritance tax  
23 under Chapter 77, article 20. ~~7 or estate tax apportionment as~~  
24 ~~provided in sections 77-2108 to 77-2112.~~

25 (36) Property includes both real and personal property or



1 any interest therein and means anything that may be the subject of  
2 ownership.

3 (37) Protected person is as defined in section 30-2601.

4 (38) Protective proceeding is as defined in section  
5 30-2601.

6 (39) Registrar refers to the official of the court  
7 designated to perform the functions of registrar as provided in  
8 section 30-2216.

9 (40) Relative or relation of a person means all persons  
10 who are related to him or her by blood or legal adoption.

11 (41) Security includes any note, stock, treasury  
12 stock, bond, debenture, evidence of indebtedness, certificate  
13 of interest or participation in an oil, gas, or mining title  
14 or lease or in payments out of production under such a title  
15 or lease, collateral-trust certificate, transferable share,  
16 voting-trust certificate or, in general, any interest or instrument  
17 commonly known as a security, or any certificate of interest or  
18 participation, any temporary or interim certificate, receipt, or  
19 certificate of deposit for, or any warrant or right to subscribe to  
20 or purchase, any of the foregoing.

21 (42) Settlement, in reference to a decedent's estate,  
22 includes the full process of administration, distribution, and  
23 closing.

24 (43) Special administrator means a personal  
25 representative as described by sections 30-2457 to 30-2461.

1           (44) State includes any state of the United States, the  
2 District of Columbia, the Commonwealth of Puerto Rico, and any  
3 territory or possession subject to the legislative authority of the  
4 United States.

5           (45) Successor personal representative means a  
6 personal representative, other than a special administrator,  
7 who is appointed to succeed a previously appointed personal  
8 representative.

9           (46) Successors mean those persons, other than creditors,  
10 who are entitled to property of a decedent under his or her will or  
11 the Nebraska Probate Code.

12           (47) Supervised administration refers to the proceedings  
13 described in Article 24, part 5.

14           (48) Testacy proceeding means a proceeding to establish a  
15 will or determine intestacy.

16           (49) Testator means the maker of a will.

17           (50) Trust includes any express trust, private or  
18 charitable, with additions thereto, wherever and however created.  
19 It also includes a trust created or determined by judgment or  
20 decree under which the trust is to be administered in the manner  
21 of an express trust. Trust excludes other constructive trusts,  
22 and it excludes resulting trusts, conservatorships, personal  
23 representatives, trust accounts as defined in Article 27, custodial  
24 arrangements pursuant to the Nebraska Uniform Transfers to Minors  
25 Act, business trusts providing for certificates to be issued

1 to beneficiaries, common trust funds, voting trusts, security  
2 arrangements, liquidation trusts, and trusts for the primary  
3 purpose of paying debts, dividends, interest, salaries, wages,  
4 profits, pensions, or employee benefits of any kind, and any  
5 arrangement under which a person is nominee or escrowee for  
6 another.

7 (51) Trustee includes an original, additional, or  
8 successor trustee, whether or not appointed or confirmed by court.

9 (52) Ward is as defined in section 30-2601.

10 (53) Will means any instrument, including any codicil or  
11 other testamentary instrument complying with sections 30-2326 to  
12 30-2338, which disposes of personal or real property, appoints  
13 a personal representative, conservator, guardian, or trustee,  
14 revokes or revises an earlier executed testamentary instrument,  
15 or encompasses any one or more of such objects or purposes.

16 Sec. 3. Section 30-2352, Revised Statutes Cumulative  
17 Supplement, 2006, is amended to read:

18 30-2352 (a)(1) A person (or the representative of a  
19 deceased, incapacitated, or protected person) who is an heir,  
20 devisee, person succeeding to a renounced interest, donee,  
21 beneficiary under a testamentary or nontestamentary instrument,  
22 donee of a power of appointment, grantee, surviving joint owner  
23 or surviving joint tenant, beneficiary, or owner of an insurance  
24 contract or any incident of ownership therein, beneficiary or  
25 person designated to take pursuant to a power of appointment

1 exercised by a testamentary or nontestamentary instrument, person  
2 who has a statutory entitlement to or election with respect to  
3 property pursuant to the Nebraska Probate Code, or recipient of  
4 any beneficial interest under any testamentary or nontestamentary  
5 instrument, may renounce in whole or in part, or with reference  
6 to specific parts, fractional shares, undivided portions or assets  
7 thereof, by filing a written instrument of renunciation within the  
8 time and at the place hereinafter provided.

9 (2) The instrument shall (i) describe the property or  
10 part thereof or the interest therein renounced, (ii) be signed  
11 and acknowledged by the person renouncing in the manner provided  
12 for in the execution of deeds of real estate, (iii) declare the  
13 renunciation and the extent thereof, and (iv) declare that the  
14 renunciation is an irrevocable and unqualified refusal to accept  
15 the renounced interest.

16 (3) The appropriate court in a proceeding under section  
17 30-3812, may direct or permit a trustee under a testamentary  
18 or nontestamentary instrument to renounce any restriction on or  
19 power of administration, management, or allocation of benefit upon  
20 finding that such restrictions on the exercise of such power may  
21 defeat or impair the accomplishment of the purposes of the trust  
22 whether by the imposition of tax or the allocation of beneficial  
23 interest inconsistent with such purposes or by other reason. Such  
24 authority shall be exercised after hearing and upon notice to  
25 qualified beneficiaries as defined in section 30-3803, in the

1 manner directed by the court.

2 (b) The instrument specified in (a)(1) and (a)(2) must  
3 be received by the transferor of the interest, his or her  
4 legal representative, the personal representative of a deceased  
5 transferor, the trustee of any trust in which the interest being  
6 renounced exists, or the holder of the legal title to the property  
7 to which the interest relates. To be effective for purposes of  
8 determining inheritance and estate taxes tax under articles 20  
9 and 21 of Chapter 77, sections 77-2001 to 77-2039, the instrument  
10 must be received not later than the date which is nine months  
11 after the later of (i) the date on which the transfer creating  
12 the interest in such person is made, or (ii) the date on which  
13 such person attains age twenty-one. If the circumstances which  
14 establish the right of a person to renounce an interest arise as  
15 a result of the death of an individual, the instrument shall also  
16 be filed in the court of the county where proceedings concerning  
17 the decedent's estate are pending, or where they would be pending  
18 if commenced. If an interest in real estate is renounced, a copy  
19 of the instrument shall also be recorded in the office of the  
20 register of deeds in the county in which the real estate lies. No  
21 person entitled to a copy of the instrument shall be liable for  
22 any proper distribution or disposition made without actual notice  
23 of the renunciation and no such person making a proper distribution  
24 or disposition in reliance upon the renunciation shall be liable  
25 for any such distribution or disposition in the absence of actual

1 notice that an action has been instituted contesting the validity  
2 of the renunciation.

3 (c) Unless the transferor of the interest has otherwise  
4 indicated in the instrument creating the interest, the interest  
5 renounced, and any future interest which is to take effect in  
6 possession or enjoyment at or after the termination of the interest  
7 renounced, passes as if the person renouncing had predeceased the  
8 decedent or had died prior to the date on which the transfer  
9 creating the interest in such person is made, as the case may  
10 be, if the renunciation is within the time periods set forth in  
11 subsection (b) and if not within such time periods the interest  
12 renounced, and any future interest which is to take effect in  
13 possession or enjoyment at or after the termination of the interest  
14 renounced, passes as if the person renouncing had died on the  
15 date the interest was renounced. The person renouncing shall have  
16 no power to direct how the interest being renounced shall pass,  
17 except that the renunciation of an interest for which the right  
18 to renounce was established by the death of an individual shall,  
19 in the case of the spouse of the decedent, relate only to that  
20 statutory provision or that provision of the instrument creating  
21 the interest being renounced and shall not preclude the spouse  
22 from receiving the benefits of the renounced interest which may be  
23 derived as a result of the renounced interest passing pursuant to  
24 other statutory provisions or pursuant to other provisions of the  
25 instrument creating the interest unless such further benefits are

1 also renounced. In every case when the renunciation is within the  
2 time periods set forth in subsection (b) the renunciation relates  
3 back for all purposes to the date of death of the decedent or the  
4 date on which the transfer creating the interest in such person is  
5 made, as the case may be.

6 (d) Any (1) assignment, conveyance, encumbrance, pledge,  
7 or transfer of property therein or any contract therefor, (2)  
8 written waiver of the right to renounce or any acceptance of  
9 property or benefits therefrom or an interest therein by an  
10 heir, devisee, person succeeding to a renounced interest, donee,  
11 beneficiary under a testamentary or nontestamentary instrument,  
12 donee of a power of appointment, grantee, surviving joint owner  
13 or surviving joint tenant, beneficiary or owner of an insurance  
14 contract or any incident of ownership therein, beneficiary or  
15 person designated to take pursuant to a power of appointment  
16 exercised by a testamentary or nontestamentary instrument, person  
17 who has a statutory entitlement to or election with respect to  
18 property pursuant to the Nebraska Probate Code, or recipient of  
19 any beneficial interest under any testamentary or nontestamentary  
20 instrument, or (3) sale or other disposition of property pursuant  
21 to judicial process, made within the time periods set forth in  
22 subsection (b) shall not bar the right to renounce, but shall  
23 make a subsequent renunciation within the time period set forth  
24 in subsection (b) of this section ineffective for purposes of  
25 determination of inheritance ~~and estate taxes~~ tax under articles 20

1 ~~and 21 of Chapter 77.~~ sections 77-2001 to 77-2039.

2 (e) Within thirty days of receipt of a written instrument  
3 of renunciation by the transferor of the interest, his or her legal  
4 representative, the personal representative of the decedent, the  
5 trustee of any trust in which the interest being renounced exists,  
6 or the holder of the legal title to the property to which the  
7 interest relates, as the case may be, such person shall attempt  
8 to notify in writing those persons who are known or ascertainable  
9 with reasonable diligence who shall be recipients or potential  
10 recipients of the renounced interest of the renunciation and the  
11 interest or potential interest such recipient shall receive as a  
12 result of the renunciation.

13 (f) The right to renounce granted by this section exists  
14 irrespective of any limitation on the interest of the person  
15 renouncing in the nature of a spendthrift provision or similar  
16 restriction. A trust beneficiary whose interest is subject to any  
17 limitation in the nature of a spendthrift provision or similar  
18 restriction may assign, sell, or otherwise convey such interest or  
19 any part thereof upon a finding by a court in a proceeding under  
20 section 30-3812 that the rights of other beneficiaries would not  
21 be impaired and that such assignment, sale, or other conveyance  
22 would not result in any substantial benefit to nonbeneficiaries  
23 of the trust at the expense of the trust or trust beneficiaries.  
24 Such finding may be made after hearing and upon notice to all  
25 known persons beneficially interested in such trust, in the manner



1 directed by the court.

2 (g) This section does not abridge the right of any person  
3 to assign, convey, release, or renounce any property arising under  
4 any other section of this code or other statute.

5 (h) Any interest in property which exists on July 19,  
6 1980, may be renounced after July 19, 1980, as provided herein. An  
7 interest which has arisen prior to July 19, 1980, in any person  
8 other than the person renouncing is not destroyed or diminished by  
9 any action of the person renouncing taken under this section.

10 Sec. 4. Section 77-381, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 77-381 For purposes of the Tax Expenditure Reporting Act,  
13 unless the context otherwise requires:

14 (1) Tax expenditure shall mean a revenue reduction that  
15 occurs in the tax base of the state or a political subdivision  
16 as the result of an exemption, deduction, exclusion, tax deferral,  
17 credit, or preferential rate introduced into the tax structure;

18 (2) Department shall mean the Department of Revenue;

19 (3) Income tax shall mean the tax imposed upon  
20 individuals and corporations under the Nebraska Revenue Act of  
21 1967;

22 (4) Sales tax shall mean the tax imposed upon  
23 expenditures under the Nebraska Revenue Act of 1967;

24 (5) Property tax shall mean the tax imposed upon real and  
25 personal property under Chapter 77; and

1           (6) Miscellaneous tax shall mean revenue sources other  
2 than income, sales, and property taxes for state and local  
3 government including, but not limited to, motor fuel taxes,  
4 liquor taxes, cigarette taxes, inheritance and estate taxes,  
5 ~~generation-skipping transfer taxes~~, insurance premium taxes, and  
6 occupation taxes and fees or other taxes which generate state or  
7 local revenue annually in excess of two million dollars.

8           Sec. 5. Section 77-2039, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           77-2039 (1) Any county court may issue an order  
11 discharging any or all of the property subject to any inheritance  
12 tax, ~~Nebraska estate tax~~, or ~~generation-skipping transfer tax~~ lien.

13           (2) The county court may prescribe the terms and  
14 conditions upon which any inheritance tax, ~~estate tax~~, or  
15 ~~generation-skipping transfer tax~~ lien shall be released or  
16 discharged.

17           (3) Any person who desires a release or discharge of any  
18 inheritance tax, ~~estate tax~~, or ~~generation-skipping transfer tax~~  
19 lien shall make a written application to the county court. If the  
20 county attorney shall not consent to the release or discharge of  
21 the lien as requested in the application by entering his or her  
22 voluntary appearance and waiver of notice, he or she shall within  
23 seven days of the filing of such application show in writing why  
24 such release or discharge should not be granted or shall specify  
25 the terms and conditions upon which such release or discharge

1 should be allowed.

2           Sec. 6. Section 77-2701.10, Revised Statutes Cumulative  
3 Supplement, 2006, is amended to read:

4           77-2701.10 Contractor or repairperson means any person  
5 who performs any repair services upon property annexed to, or  
6 who annexes building materials to, real estate, including leased  
7 property, and who, as a necessary and incidental part of performing  
8 such services, annexes building materials to the real estate being  
9 so repaired or annexed or arranges for such annexation. Contractor  
10 or repairperson does not include any person who incorporates  
11 live plants into real estate except when such incorporation is  
12 incidental to the transfer of an improvement upon real estate or  
13 the real estate. The contractor or repairperson not electing to  
14 be taxed as a retailer is considered to be the consumer of such  
15 building materials furnished by him or her and annexed to the real  
16 estate being so repaired or annexed for all the purposes of the  
17 Nebraska Revenue Act of 1967. The contractor or repairperson:

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

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

1           (3) Shall be permitted to make an election that he or  
2 she will be taxed as the consumer of building materials annexed  
3 to real estate and may issue a resale certificate when purchasing  
4 building materials that will be annexed to real estate. Such person  
5 shall then remit the appropriate use tax on any building materials  
6 when withdrawn from inventory for the purpose of being annexed to  
7 real estate at the rate in effect at the time and place of the  
8 withdrawal from inventory.

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

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

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

21           Any change in the election shall, if filed on or prior to  
22 the fifteenth of the month, become effective at the beginning of  
23 the following month or, if filed after the fifteenth of the month,  
24 become effective on the first day of the next succeeding month. Any  
25 person who changes his or her election and becomes a contractor

1 or repairperson shall pay the tax on all building materials in  
2 inventory which may be annexed to real estate at the time of making  
3 the change in election except when such contractor or repairperson  
4 elects to purchase inventory with a resale certificate. Any person  
5 who changes his or her election and becomes a retailer shall not be  
6 entitled to a refund but shall receive a credit for the tax paid on  
7 building materials in inventory at the time the building materials  
8 are sold. The credit shall be applied against the tax collected on  
9 sales of such building materials.

10 Any contractor or repairperson who has not completed and  
11 filed an election as required in this section within three months  
12 after beginning to operate as a contractor or repairperson shall be  
13 considered a retailer for all periods until an election has been  
14 made.

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

17 77-2701.16 (1) Gross receipts shall mean the total amount  
18 of the sale or lease or rental price, as the case may be, of  
19 the retail sales of retailers valued in money whether received in  
20 money or otherwise, without any deduction on account of any of the  
21 following:

22 (a) The cost of property sold. In accordance with rules  
23 and regulations adopted and promulgated by the Tax Commissioner, a  
24 deduction may be taken if the retailer has purchased property for  
25 some purpose other than resale, has reimbursed his or her vendor

1 for tax which the vendor is required to pay to the state or has  
2 paid the use tax with respect to the property, and has resold  
3 the property prior to making any use of the property other than  
4 retention, demonstration, or display while holding it for sale in  
5 the regular course of business. If such a deduction is taken by the  
6 retailer, no refund or credit will be allowed to his or her vendor  
7 with respect to the sale of the property;

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

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

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

14 (e) The amount charged for warranties, guarantees, or  
15 maintenance agreements.

16 (2) Gross receipts of every person engaged as a public  
17 utility specified in this subsection or as a community antenna  
18 television service operator or any person involved in connecting  
19 and installing services defined in subdivision (2)(a), (b), or (d)  
20 of this section shall mean:

21 (a) In the furnishing of telephone communication service,  
22 other than mobile telecommunications service as described in  
23 section 77-2706.02, the gross income received from furnishing local  
24 exchange telephone service and intrastate message toll telephone  
25 service. In the furnishing of mobile telecommunications service

1 as described in section 77-2706.02, the gross income received  
2 from furnishing mobile telecommunications service that originates  
3 and terminates in the same state to a customer with a place  
4 of primary use in Nebraska. Gross receipts shall not mean (i)  
5 the gross income, including division of revenue, settlements, or  
6 carrier access charges received on or after January 1, 1984, from  
7 the sale of a telephone communication service to a communication  
8 service provider for purposes of furnishing telephone communication  
9 service or (ii) the gross income attributable to services rendered  
10 using a prepaid telephone calling arrangement. For purposes of  
11 this subdivision, a prepaid telephone calling arrangement shall  
12 mean the right to exclusively purchase telecommunications service  
13 that is paid for in advance that enables the origination of calls  
14 using an access number or authorization code, whether manually or  
15 electronically dialed;

16 (b) In the furnishing of telegraph service, the gross  
17 income received from the furnishing of intrastate telegraph  
18 services;

19 (c) In the furnishing of gas, electricity, sewer, and  
20 water service except water used for irrigation of agricultural  
21 lands and manufacturing purposes, the gross income received from  
22 the furnishing of such services upon billings or statements  
23 rendered to consumers for such utility services; and

24 (d) In the furnishing of community antenna television  
25 service, the gross income received from the furnishing of such

1 community antenna television service as regulated under sections  
2 18-2201 to 18-2205 or 23-383 to 23-388.

3 Gross receipts shall also mean gross income received from  
4 the provision, installation, construction, servicing, or removal of  
5 property used in conjunction with the furnishing, installing, or  
6 connecting of any public utility services specified in subdivision  
7 (2)(a) or (b) of this section or community antenna television  
8 service specified in subdivision (2)(d) of this section. Gross  
9 receipts shall not mean gross income received from telephone  
10 directory advertising.

11 (3) Gross receipts of every person engaged in selling,  
12 leasing, or otherwise providing intellectual or entertainment  
13 property shall mean:

14 (a) In the furnishing of computer software, the gross  
15 income received, including the charges for coding, punching, or  
16 otherwise producing computer software and the charges for the  
17 tapes, disks, punched cards, or other properties furnished by the  
18 seller; and

19 (b) In the furnishing of videotapes, movie film,  
20 satellite programming, satellite programming service, and satellite  
21 television signal descrambling or decoding devices, the gross  
22 income received from the license, franchise, or other method  
23 establishing the charge except the gross income received from  
24 videotape and film rentals, satellite programming, and satellite  
25 programming service when the sales tax or the admission tax is



1 charged under the Nebraska Revenue Act of 1967 and except as  
2 provided in section 77-2704.39.

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

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

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

8 (c) The gross income received for computer software  
9 training;

10 (d) The gross income received for installing and applying  
11 tangible personal property if the sale of the property is subject  
12 to tax;

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

15 (f) The gross income received for services of  
16 recreational vehicle parks;

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

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

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

1                   (5) Gross receipts shall not include any of the  
2 following:

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

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

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

11                   (d) The amount charged for finance charges, carrying  
12 charges, service charges, or interest from credit extended on sales  
13 of property or services under contracts providing for deferred  
14 payments of the purchase price if such charges are not used as a  
15 means of avoiding imposition of the tax upon the actual sales price  
16 of the property or services;

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

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

23                   (g) Receipts from conditional sale contracts, installment  
24 sale contracts, rentals, and leases executed in writing prior to  
25 June 1, 1967, and with delivery of the property prior to June

1 1, 1967, if such conditional sale contracts, installment sale  
2 contracts, rentals, or leases are for a fixed price and are not  
3 subject to negotiation or alteration; or

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

10 (6) Subsections (1) through (6) of this section terminate  
11 on January 1, 2004.

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

15 (8) Gross receipts of every person engaged as a public  
16 utility specified in this subsection or as a community antenna  
17 television service operator or any person involved in connecting  
18 and installing services defined in subdivision (8)(a), (b), or (d)  
19 of this section means:

20 (a)(i) In the furnishing of telephone communication  
21 service, other than mobile telecommunications service as described  
22 in section 77-2703.04, the gross income received from furnishing  
23 local exchange telephone service and intrastate message toll  
24 telephone service; and

25 (ii) In the furnishing of mobile telecommunications

1 service as described in section 77-2703.04, the gross income  
2 received from furnishing mobile telecommunications service that  
3 originates and terminates in the same state to a customer with a  
4 place of primary use in Nebraska;

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, the gross income received from the furnishing of  
10 such services upon billings or statements rendered to consumers for  
11 such utility services;

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; and

16 (e) The gross income received from the provision,  
17 installation, construction, servicing, or removal of property used  
18 in conjunction with the furnishing, installing, or connecting of  
19 any public utility services specified in subdivision (8)(a) or (b)  
20 of this section or community antenna television service specified  
21 in subdivision (8)(d) of this section, ~~which shall be considered~~  
22 ~~construction services beginning October 1, 2003. Except except when~~  
23 acting as a subcontractor for a public utility, this subdivision  
24 does not apply to the gross income received by a contractor  
25 electing to be treated as a consumer of building materials under

1 subdivision (2) or (3) of section 77-2701.10 for any such services  
2 performed on the customer's side of the utility demarcation point,  
3 ~~prior to October 1, 2003.~~

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

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

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

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

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 receipts received for labor 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~~ except as provided  
5 in section ~~77-2704.55~~. For purposes of this subdivision, the gross  
6 receipts received for labor shall be sixty percent of the sales  
7 price for building materials and construction services less an  
8 allowance for sales tax paid on building materials. The allowance  
9 for sales tax paid on building materials shall equal the sales tax  
10 rate in effect at the time payment is received at the location of  
11 the project times forty percent of the sales price for building  
12 materials and construction services;

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

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

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

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

24 (11) Gross receipts includes the sale of admissions which  
25 means the right or privilege to have access to or to use a place

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

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

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

22 (14) Gross receipts includes the sale of prepaid  
23 telephone calling arrangements and the recharge of prepaid  
24 telephone calling arrangements. If the sale or recharge of a  
25 prepaid telephone calling arrangement does not take place at

1 the vendor's place of business, the sale or recharge shall be  
2 conclusively determined to take place at the customer's shipping  
3 address or, if there is no item shipped, at the customer's  
4 billing address. For purposes of this subsection, a prepaid  
5 telephone calling arrangement means the right to exclusively  
6 purchase telecommunications services that are paid for in advance  
7 that enables the origination of calls using an access number or  
8 authorization code, whether manually or electronically dialed.

9 (15) Gross receipts does not include:

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

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

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

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

24 Sec. 8. Section 77-2701.34, Revised Statutes Cumulative  
25 Supplement, 2006, is amended to read:



1           77-2701.34 Sale for resale means a sale of property or  
2 provision of a service to any purchaser who is purchasing such  
3 property or service for the purpose of reselling it in the normal  
4 course of his or her business, either in the form or condition in  
5 which it is purchased or as an attachment to or integral part of  
6 other property or service. A sale for resale includes a sale of  
7 building materials to a contractor or repairperson electing to be  
8 taxed as a retailer under subdivision (1) of section 77-2701.10, a  
9 sale of building materials to a contractor or repairperson being  
10 taxed as the consumer of building materials and electing a tax-free  
11 inventory under subdivision (3) of section 77-2701.10, or a sale  
12 of property to a purchaser for the sole purpose of that purchaser  
13 renting or leasing such property to another person, with rent or  
14 lease payments set at a fair market value, or film rentals for  
15 use in a place where an admission is charged that is subject to  
16 tax under the Nebraska Revenue Act of 1967 but not if incidental  
17 to the renting or leasing of real estate. A sale for resale also  
18 includes the sale by a contractor of construction services to  
19 another contractor.

20           Sec. 9. Section 77-2703, Revised Statutes Cumulative  
21 Supplement, 2006, is amended to read:

22           77-2703 (1) There is hereby imposed a tax at the rate  
23 provided in section 77-2701.02 upon the gross receipts from all  
24 sales of tangible personal property sold at retail in this state,  
25 the gross receipts of every person engaged as a public utility,

1 as a community antenna television service operator or any person  
2 involved in the connecting and installing of the services defined  
3 in subdivision ~~(2)(a)~~, ~~(b)~~, or ~~(d)~~ of section 77-2701.16 until  
4 January 1, 2004, and the services defined in subdivision (8)(a),  
5 (b), (d), or (e) of section 77-2701.16, beginning on January 1,  
6 2004, or as a retailer of intellectual or entertainment properties  
7 referred to in subsection ~~(3)~~ of section 77-2701.16 until January  
8 1, 2004, and subsection (9) of section 77-2701.16, beginning on  
9 January 1, 2004, the gross receipts from the sale of admissions  
10 in this state, the gross receipts from the sale of warranties,  
11 guarantees, service agreements, or maintenance agreements when the  
12 items covered are subject to tax under this section, and the gross  
13 receipts from the provision of services defined in subsection ~~(4)~~  
14 of section 77-2701.16 until January 1, 2004, and services defined  
15 in subsection (10) of section 77-2701.16, beginning on January  
16 1, 2004. Except as provided in section 77-2701.03, when there is  
17 a sale, the tax shall be imposed at the rate in effect at the  
18 time the gross receipts are realized under the accounting basis  
19 used by the retailer to maintain his or her books and records,  
20 or for a contractor when the payment or payments are received  
21 for construction services. For purposes of this subsection until  
22 January 1, 2004, the provision of services shall be deemed to  
23 be in this state for services provided to real estate if the  
24 real estate is located in this state, for services provided to  
25 personal property or animals if the personal property or animal is

1 located in this state and the service is rendered for use in this  
2 state, for detective services under subdivision (4)(i) of section  
3 77-2701.16, in the case of a customer who is an individual, if the  
4 individual is residing in this state, or in the case of a business  
5 customer, if the principal place of the business is located in this  
6 state, and for computer software training under subdivision (4)(c)  
7 of section 77-2701.16 if the training is performed at a location  
8 that is within this state for a customer located within this state.

9 (a) The tax imposed by this section shall be collected  
10 by the retailer from the consumer. It shall constitute a part of  
11 the purchase price and until collected shall be a debt from the  
12 consumer to the retailer and shall be recoverable at law in the  
13 same manner as other debts. The tax required to be collected by the  
14 retailer from the consumer constitutes a debt owed by the retailer  
15 to this state.

16 (b) It is unlawful for any retailer to advertise, hold  
17 out, or state to the public or to any customer, directly or  
18 indirectly, that the tax or part thereof will be assumed or  
19 absorbed by the retailer, that it will not be added to the selling,  
20 renting, or leasing price of the property sold, rented, or leased,  
21 or that, if added, it or any part thereof will be refunded. The  
22 provisions of this subdivision shall not apply to a public utility.

23 (c) The tax required to be collected by the retailer from  
24 the purchaser, unless otherwise provided by statute or by rule and  
25 regulation of the Tax Commissioner, shall be displayed separately

1 from the list price, the price advertised in the premises, the  
2 marked price, or other price on the sales check or other proof of  
3 sales, rentals, or leases.

4 (d) For the purpose of more efficiently securing the  
5 payment, collection, and accounting for the sales tax and for the  
6 convenience of the retailer in collecting the sales tax, it shall  
7 be the duty of the Tax Commissioner to provide a schedule or  
8 schedules of the amounts to be collected from the consumer or user  
9 to effectuate the computation and collection of the tax imposed  
10 by the Nebraska Revenue Act of 1967. Such schedule or schedules  
11 shall provide that the tax shall be collected from the consumer  
12 or user uniformly on sales according to brackets based on sales  
13 prices of the item or items. Retailers may compute the tax due on  
14 any transaction on an item or an invoice basis. The rounding rule  
15 provided in section 77-3,117 applies.

16 (e) The use of tokens or stamps for the purpose of  
17 collecting or enforcing the collection of the taxes imposed in the  
18 Nebraska Revenue Act of 1967 or for any other purpose in connection  
19 with such taxes is prohibited.

20 (f) For the purpose of the proper administration of the  
21 provisions of the Nebraska Revenue Act of 1967 and to prevent  
22 evasion of the retail sales tax, it shall be presumed that all  
23 gross receipts are subject to the tax until the contrary is  
24 established. The burden of proving that a sale of property is not  
25 a sale at retail is upon the person who makes the sale unless he

1 or she takes from the purchaser (i) a resale certificate to the  
2 effect that the property is purchased for the purpose of reselling,  
3 leasing, or renting it, (ii) an exemption certificate pursuant to  
4 subsection (7) of section 77-2705, or (iii) a direct payment permit  
5 pursuant to sections 77-2705.01 to 77-2705.03. Receipt of a resale  
6 certificate, exemption certificate, or direct payment permit shall  
7 be conclusive proof for the seller that the sale was made for  
8 resale or was exempt or that the tax will be paid directly to the  
9 state.

10 (g) In the rental or lease of automobiles, trucks,  
11 trailers, semitrailers, and truck-tractors as defined in the Motor  
12 Vehicle Registration Act, the tax shall be collected by the lessor  
13 on the rental or lease price at the tax rate in effect on the date  
14 the automobile, truck, trailer, semitrailer, or truck-tractor is  
15 delivered to the lessee, except as otherwise provided within this  
16 section.

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

23 (i) Notice of the desire to make such election shall  
24 be filed with the Tax Commissioner and shall not become effective  
25 until the Tax Commissioner is satisfied that the taxpayer has

1 complied with all conditions of this subsection and all rules and  
2 regulations of the Tax Commissioner;

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

6 (iii) When such election is made, it shall apply to all  
7 vehicles of the lessor rented or leased for periods of one year or  
8 more except vehicles to be leased to common or contract carriers  
9 who provide to the lessor a valid common or contract carrier  
10 exemption certificate. If the lessor rents or leases other vehicles  
11 for periods of less than one year, such lessor shall maintain his  
12 or her books and records and his or her accounting procedure as the  
13 Tax Commissioner prescribes; and

14 (iv) The Tax Commissioner by rule and regulation shall  
15 prescribe the contents and form of the notice of election, a  
16 procedure for the determination of the tax base of vehicles which  
17 are under an existing lease at the time such election becomes  
18 effective, the method and manner for terminating such election, and  
19 such other rules and regulations as may be necessary for the proper  
20 administration of this subdivision.

21 (i) The tax imposed by this section on the sales of  
22 motor vehicles, semitrailers, and trailers as defined in sections  
23 60-339, 60-348, and 60-354 shall be the liability of the purchaser  
24 and, with the exception of motor vehicles, semitrailers, and  
25 trailers registered pursuant to section 60-3,198, the tax shall

1 be collected by the county treasurer or designated county official  
2 as provided in the Motor Vehicle Registration Act at the time  
3 the purchaser makes application for the registration of the motor  
4 vehicle, semitrailer, or trailer for operation upon the highways  
5 of this state. The tax imposed by this section on motor vehicles,  
6 semitrailers, and trailers registered pursuant to section 60-3,198  
7 shall be collected by the Department of Motor Vehicles at the time  
8 the purchaser makes application for the registration of the motor  
9 vehicle, semitrailer, or trailer for operation upon the highways  
10 of this state. At the time of the sale of any motor vehicle,  
11 semitrailer, or trailer, the seller shall (i) state on the sales  
12 invoice the dollar amount of the tax imposed under this section  
13 and (ii) furnish to the purchaser a certified statement of the  
14 transaction, in such form as the Tax Commissioner prescribes,  
15 setting forth as a minimum the total sales price, the allowance for  
16 any trade-in, and the difference between the two. The sales tax due  
17 shall be computed on the difference between the total sales price  
18 and the allowance for any trade-in as disclosed by such certified  
19 statement. Any seller who willfully understates the amount upon  
20 which the sales tax is due shall be subject to a penalty of one  
21 thousand dollars. A copy of such certified statement shall also  
22 be furnished to the Tax Commissioner. Any seller who fails or  
23 refuses to furnish such certified statement shall be guilty of  
24 a misdemeanor and shall, upon conviction thereof, be punished by  
25 a fine of not less than twenty-five dollars nor more than one

1 hundred dollars. If the seller fails to state on the sales invoice  
2 the dollar amount of the tax due, the purchaser shall have the  
3 right and authority to rescind any agreement for purchase and  
4 to declare the purchase null and void. If the purchaser retains  
5 such motor vehicle, semitrailer, or trailer in this state and  
6 does not register it for operation on the highways of this state  
7 within thirty days of the purchase thereof, the tax imposed by  
8 this section shall immediately thereafter be paid by the purchaser  
9 to the county treasurer, the designated county official, or the  
10 Department of Motor Vehicles. If the tax is not paid on or  
11 before the thirtieth day after its purchase, the county treasurer,  
12 designated county official, or Department of Motor Vehicles shall  
13 also collect from the purchaser interest from the thirtieth day  
14 through the date of payment and sales tax penalties as provided in  
15 the Nebraska Revenue Act of 1967. The county treasurer, designated  
16 county official, or Department of Motor Vehicles shall report and  
17 remit the tax so collected to the Tax Commissioner by the fifteenth  
18 day of the following month. The county treasurer or designated  
19 county official shall deduct and withhold for the use of the county  
20 general fund, from all amounts required to be collected under  
21 this subsection, the collection fee permitted to be deducted by  
22 any retailer collecting the sales tax. The Department of Motor  
23 Vehicles shall deduct, withhold, and deposit in the Motor Carrier  
24 Division Cash Fund the collection fee permitted to be deducted by  
25 any retailer collecting the sales tax. The collection fee shall



1 be forfeited if the county treasurer, designated county official,  
2 or Department of Motor Vehicles violates any rule or regulation  
3 pertaining to the collection of the use tax.

4 (j)(i) The tax imposed by this section on the sale of a  
5 motorboat as defined in section 37-1204 shall be the liability of  
6 the purchaser. The tax shall be collected by the county treasurer  
7 or designated county official at the time the purchaser makes  
8 application for the registration of the motorboat. At the time  
9 of the sale of a motorboat, the seller shall (A) state on the  
10 sales invoice the dollar amount of the tax imposed under this  
11 section and (B) furnish to the purchaser a certified statement of  
12 the transaction, in such form as the Tax Commissioner prescribes,  
13 setting forth as a minimum the total sales price, the allowance for  
14 any trade-in, and the difference between the two. The sales tax due  
15 shall be computed on the difference between the total sales price  
16 and the allowance for any trade-in as disclosed by such certified  
17 statement. Any seller who willfully understates the amount upon  
18 which the sales tax is due shall be subject to a penalty of one  
19 thousand dollars. A copy of such certified statement shall also  
20 be furnished to the Tax Commissioner. Any seller who fails or  
21 refuses to furnish such certified statement shall be guilty of a  
22 misdemeanor and shall, upon conviction thereof, be punished by a  
23 fine of not less than twenty-five dollars nor more than one hundred  
24 dollars. If the seller fails to state on the sales invoice the  
25 dollar amount of the tax due, the purchaser shall have the right

1 and authority to rescind any agreement for purchase and to declare  
2 the purchase null and void. If the purchaser retains such motorboat  
3 in this state and does not register it within thirty days of the  
4 purchase thereof, the tax imposed by this section shall immediately  
5 thereafter be paid by the purchaser to the county treasurer or  
6 designated county official. If the tax is not paid on or before  
7 the thirtieth day after its purchase, the county treasurer or  
8 designated county official shall also collect from the purchaser  
9 interest from the thirtieth day through the date of payment and  
10 sales tax penalties as provided in the Nebraska Revenue Act of  
11 1967. The county treasurer or designated county official shall  
12 report and remit the tax so collected to the Tax Commissioner by  
13 the fifteenth day of the following month. The county treasurer or  
14 designated county official shall deduct and withhold for the use of  
15 the county general fund, from all amounts required to be collected  
16 under this subsection, the collection fee permitted to be deducted  
17 by any retailer collecting the sales tax. The collection fee shall  
18 be forfeited if the county treasurer or designated county official  
19 violates any rule or regulation pertaining to the collection of the  
20 use tax.

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

23 (k) The Tax Commissioner shall adopt and promulgate  
24 necessary rules and regulations for determining the amount subject  
25 to the taxes imposed by this section so as to insure that the

1 full amount of any applicable tax is paid in cases in which a  
2 sale is made of which a part is subject to the taxes imposed by  
3 this section and a part of which is not so subject and a separate  
4 accounting is not practical or economical.

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

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

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

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

24 (f) For the purpose of the proper administration of the  
25 Nebraska Revenue Act of 1967 and to prevent evasion of the use tax,

1 for the sale of property to an advertising agency which purchases  
2 the property as an agent for a disclosed or undisclosed principal,  
3 the advertising agency is and remains liable for the sales and  
4 use tax on the purchase the same as if the principal had made the  
5 purchase directly.

6 Sec. 10. Section 77-2703.01, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

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

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

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

23 (4) When subsection (2) or (3) of this section does not  
24 apply, the sale is sourced to the location indicated by an address  
25 or other information for the purchaser that is available from

1 the business records of the retailer that are maintained in the  
2 ordinary course of the retailer's business when use of this address  
3 does not constitute bad faith.

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

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

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

21 (a) For a lease or rental that requires recurring  
22 periodic payments, the first periodic payment is sourced the same  
23 as a retail sale in accordance with the provisions of subsections  
24 (2) through (6) of this section. Periodic payments made subsequent  
25 to the first payment are sourced to the primary property location

1 for each period covered by the payment. The primary property  
2 location shall be as indicated by an address for the property  
3 provided by the lessee that is available to the lessor from its  
4 records maintained in the ordinary course of business when use of  
5 this address does not constitute bad faith. The property location  
6 shall not be altered by intermittent use at different locations,  
7 such as use of business property that accompanies employees on  
8 business trips and service calls; and

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

13 This subsection does not affect the imposition or  
14 computation of sales or use tax on leases or rentals based on a  
15 lump-sum or accelerated basis or on the acquisition of property  
16 for lease.

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

21 (a) For a lease or rental that requires recurring  
22 periodic payments, each periodic payment is sourced to the primary  
23 property location. The primary property location shall be as  
24 indicated by an address for the property provided by the lessee  
25 that is available to the lessor from its records maintained in



1 the ordinary course of business when use of this address does  
2 not constitute bad faith. This location shall not be altered by  
3 intermittent use at different locations; and

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

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

12 (9) The retail sale, including lease or rental, of  
13 transportation equipment shall be sourced the same as a retail sale  
14 in accordance with subsections (2) through (6) of this section.  
15 Transportation equipment means any of the following:

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

18 (b) Trucks and truck-tractors with a gross vehicle  
19 weight rating of ten thousand one pounds or greater, trailers,  
20 semitrailers, or passenger buses that are (i) registered through  
21 the International Registration Plan and (ii) operated under  
22 authority of a carrier authorized and certificated by the United  
23 States Department of Transportation or another federal authority  
24 to engage in the carriage of persons or property in interstate  
25 commerce;

1           (c) Aircraft operated by air carriers authorized and  
2 certificated by the United States Department of Transportation or  
3 another federal authority or a foreign authority to engage in the  
4 carriage of persons or property in interstate or foreign commerce;  
5 and

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

9           (10) For purposes of this section, receive and receipt  
10 mean taking possession of tangible personal property, making first  
11 use of services, or taking possession or making first use of  
12 digital goods, whichever comes first. The terms receive and receipt  
13 do not include possession by a shipping company on behalf of the  
14 purchaser. For purposes of sourcing detective services subject to  
15 tax under subdivision ~~(10)(i)~~ (10)(h) of section 77-2701.16, making  
16 first use of a service shall be deemed to be at the individual's  
17 residence, in the case of a customer who is an individual, or  
18 at the principal place of business, in the case of a business  
19 customer.

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

25           (12) The sale or lease for one year or more of motorboats

1 shall be sourced to the place of registration of the motorboat. The  
2 lease of motorboats for less than one year shall be sourced to the  
3 point of delivery.

4 Sec. 11. Section 77-2704.33, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6 77-2704.33 ~~(1)~~ When a written contract exists for a  
7 fixed price for a construction, reconstruction, alteration, or  
8 improvement project and the sales tax rate is increased during  
9 the term of that fixed-price contract, the contractor may apply  
10 for a refund of the increased sales tax amount if such refund  
11 amount exceeds ten dollars. The contractor shall be refunded such  
12 increased amount if the contractor certifies that the contract  
13 was entered into prior to the increase in the tax and that the  
14 increased tax for which the refund is requested was paid on the  
15 building materials annexed to real estate in the project. The  
16 contractor shall agree to submit a copy of the contract or other  
17 evidence necessary to prove the validity of the application to the  
18 satisfaction of the Tax Commissioner. In the event that the sales  
19 tax rate is decreased during the term of that fixed-price contract,  
20 the contractor shall pay to the Department of Revenue the decreased  
21 sales tax amount if the amount of such payment exceeds ten dollars.  
22 Failure by a contractor to pay the decreased sales tax amount  
23 as provided in this subsection shall be a Class I misdemeanor  
24 if the amount is three hundred dollars or more and a Class IIIA  
25 misdemeanor in all other cases.

1           ~~(2) When a written contract exists for a fixed price for~~  
2           ~~a construction, reconstruction, alteration, or improvement project~~  
3           ~~and the construction services became subject to the sales and use~~  
4           ~~tax during the term of that fixed-price contract, the taxpayer~~  
5           ~~may apply for a refund of the increased sales tax amount if such~~  
6           ~~refund amount exceeds ten dollars. The taxpayer shall be refunded~~  
7           ~~such increased amount if the taxpayer certifies that the contract~~  
8           ~~was entered into prior to the increase in the tax and that the~~  
9           ~~increased tax for which the refund is requested was paid on the~~  
10           ~~construction services. The taxpayer shall agree to submit a copy of~~  
11           ~~the contract or other evidence necessary to prove the validity of~~  
12           ~~the application to the satisfaction of the Tax Commissioner. In the~~  
13           ~~event that construction services are removed from the sales and use~~  
14           ~~tax base during the term of a fixed-price contract, the taxpayer~~  
15           ~~shall pay to the Department of Revenue the decreased sales tax~~  
16           ~~amount if the amount of such payment exceeds ten dollars. Failure~~  
17           ~~by a taxpayer to pay the decreased sales tax amount as provided in~~  
18           ~~this subsection shall be a Class I misdemeanor if the amount is~~  
19           ~~three hundred dollars or more and a Class IIIA misdemeanor in all~~  
20           ~~other cases.~~

21           Sec. 12. Section 77-2704.55, Revised Statutes Cumulative  
22           Supplement, 2006, is amended to read:

23           77-2704.55 (1) Sales and use taxes shall not be  
24           imposed on the gross receipts for the labor of a contractor as  
25           determined in subdivision (10)(e) of section 77-2701.16 purchased

1 in connection with the following types of construction projects:

2           (a) The first or original construction of a new  
3 structure, building, or unit;

4           (b) The construction, repair, or annexation of any  
5 structure used for the generation, transmission, or distribution of  
6 electricity;

7           (c) The major addition, remodeling, restoration, repair,  
8 or renovation of an existing structure or building or a unit of  
9 an existing building that is a single construction project of any  
10 type that costs at least fifty percent of the current value of the  
11 existing structure or building or unit of an existing building; or

12           (d) Commencing July 1, 2006, construction services on  
13 dwellings designed for occupancy by one family or duplexes designed  
14 for occupancy by two families.

15           (2) For purposes of this section:

16           (a) Building means any freestanding structure annexed to  
17 land, enclosed within a roof and exterior walls, regardless of  
18 whether enclosed on all sides;

19           (b) Current value means the current assessed value of  
20 the structure, building, or unit as determined in the records  
21 of the county assessor. If the county assessor has no current  
22 assessed value, the current value shall be the market value of  
23 the structure, building, or unit as shown by an appraisal of the  
24 property that has been performed by a licensed appraiser within six  
25 months prior to commencement of the construction project;

1           ~~(c) Dwelling means a residential structure. Dwelling~~  
2 ~~includes an attached or detached garage. Dwelling does not include~~  
3 ~~fences, landscaping, retaining walls, storage buildings, or other~~  
4 ~~structures that are not designed for human habitation.~~

5           ~~(d) Owner-occupied residential unit means a residential~~  
6 ~~unit in a dwelling complex containing three or more units actually~~  
7 ~~occupied by a natural person who is the owner of record or who has~~  
8 ~~a life tenancy therein at the time the construction or repair work~~  
9 ~~is performed.~~

10          ~~(e) Structure means any construction composed of building~~  
11 ~~materials arranged and fitted together in some way. Structure~~  
12 ~~includes, but is not limited to, streets and roadways, street~~  
13 ~~lighting, and sewers and waterlines, and~~

14          ~~(f) Unit means a physical portion of a building~~  
15 ~~designated for separate ownership, rental, or occupancy. If a unit~~  
16 ~~of a building is to be renovated and the current value is known~~  
17 ~~only for the building, the current value for the building shall be~~  
18 ~~apportioned to the unit based on square footage of floor space.~~

19          ~~(3) (1) Construction services performed on an~~  
20 ~~owner-occupied residential unit shall be subject to tax, but~~  
21 ~~commencing July 1, 2006, prior to October 1, 2007, but the owner~~  
22 ~~shall be entitled to a refund of any sales and use taxes paid by~~  
23 ~~the owner on construction services pursuant to this subsection. A~~  
24 ~~taxpayer shall be entitled to a refund of any sales tax paid on~~  
25 ~~the gross receipts for the labor of a contractor for any major~~

1 addition, remodeling, restoration, repair, or renovation described  
2 in this section as it existed prior to October 1, 2007. The refund  
3 granted in this subsection shall be conditioned upon filing a claim  
4 for the refund on a form developed by the Tax Commissioner. The  
5 requirements imposed by the Tax Commissioner shall be related to  
6 ensuring that the project qualifies for the refund. Any information  
7 received pursuant to the requirements of this subsection may  
8 be disclosed to any tax official in this state. Any taxpayer  
9 who provides false information on the forms required by the Tax  
10 Commissioner for purposes of this subsection shall be subject to  
11 the penalties provided in subsection (8) of section 77-2705.

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

20 ~~(b) The approval granted in this subsection shall be~~  
21 ~~conditioned upon filing an application on a form developed by the~~  
22 ~~Tax Commissioner with an application fee of five hundred dollars.~~  
23 ~~The application fee shall be remitted to the State Treasurer for~~  
24 ~~credit to the Department of Revenue Contractor Enforcement Fund.~~  
25 ~~The application shall be supported by designs, specifications,~~

1 contract amount, and the current value. Any requirements imposed by  
2 the Tax Commissioner shall be related to ensuring that the project  
3 qualifies for the exemption so long as the project is completed  
4 in substantial conformity with the designs and specifications  
5 submitted with the application.

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

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

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

25           (6) (2) The Department of Revenue Contractor Enforcement



1 Fund is created. Any money in the fund available for investment  
2 shall be invested by the state investment officer pursuant to  
3 the Nebraska Capital Expansion Act and the Nebraska State Funds  
4 Investment Act.

5 Sec. 13. Section 77-2715.02, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 77-2715.02 (1) Whenever the primary rate is changed by  
8 the Legislature under section 77-2715.01, the Tax Commissioner  
9 shall update the rate schedules required in subsection (2) of this  
10 section to reflect the new primary rate and shall publish such  
11 updated schedules.

12 (2) The following rate schedules are hereby established  
13 for the Nebraska individual income tax and shall be in the  
14 following form:

15 (a) The For taxable years beginning or deemed to begin  
16 before January 1, 2007, income amounts for columns A and E shall  
17 be:

18 (i) \$0, \$2,400, \$17,500, and \$27,000, for single returns;

19 (ii) \$0, \$4,000, \$31,000, and \$50,000, for married filing  
20 joint returns;

21 (iii) \$0, \$3,800, \$25,000, and \$35,000, for  
22 head-of-household returns;

23 (iv) \$0, \$2,000, \$15,500, and \$25,000, for married filing  
24 separate returns; and

25 (v) \$0, \$500, \$4,700, and \$15,150, for estates and

1 trusts;

2 (b) For taxable years beginning or deemed to begin on or  
 3 after January 1, 2007, and before January 1, 2011, income amounts  
 4 for columns A and E shall be:

5 (i) \$0, \$16,000, and \$45,000, for single returns;

6 (ii) \$0, \$32,000, and \$90,000, for married filing joint  
 7 returns;

8 (iii) \$0, \$24,000, and \$75,000, for head-of-household  
 9 returns;

10 (iv) \$0, \$16,000, and \$45,000, for married filing  
 11 separate returns; and

12 (v) \$0, \$4,300, and \$25,700, for estates and trusts;

13 (c) For taxable years beginning or deemed to begin on  
 14 or after January 1, 2011, income amounts for columns A and E for  
 15 single, head-of-household, and fiduciary shall be indexed according  
 16 to section 77-2716.01 using 2010 as the base year. The income  
 17 amounts for joint returns will be double the single income amounts.

18 ~~(b)~~ (d) The amount in column C shall be the total amount  
 19 of the tax imposed on income less than the amount in column A;

20 ~~(e)~~ (e) The amount in column D shall be the rate on the  
 21 income in excess of the amount in column E;

22 ~~(d)~~ (f) For taxable years beginning or deemed to begin  
 23 before January 1, ~~2003,~~ 2007, under the Internal Revenue Code of  
 24 1986, as amended, the primary rate set by the Legislature shall  
 25 be multiplied by the following factors to compute the tax rates

1 for column D. The factors for the brackets, from lowest to highest  
2 bracket, shall be ~~.6784, .9432, 1.3541, and 1.8054~~, .6932, .9646,  
3 1.3846, and 1.848;

4 ~~(e)~~ (g) For taxable years beginning or deemed to begin on  
5 or after January 1, ~~2003, 2007, and before January 1, 2008~~, under  
6 the Internal Revenue Code of 1986, as amended, the primary rate set  
7 by the Legislature shall be multiplied by the following factors to  
8 compute the tax rates for column D. The factors for the brackets,  
9 from lowest to highest bracket, shall be ~~.6932, .9646, 1.3846, and~~  
10 ~~1.848~~, .8297, 1.3838, and 1.8486;

11 (h) For taxable years beginning or deemed to begin on  
12 or after January 1, 2008, and before January 1, 2009, under the  
13 Internal Revenue Code of 1986, as amended, the primary rate set  
14 by the Legislature shall be multiplied by the following factors to  
15 compute the tax rates for column D. The factors for the brackets,  
16 from lowest to highest bracket, shall be .8297, 1.3838, and 1.7838;

17 (i) For taxable years beginning or deemed to begin on  
18 or after January 1, 2009, and before January 1, 2010, under the  
19 Internal Revenue Code of 1986, as amended, the primary rate set  
20 by the Legislature shall be multiplied by the following factors to  
21 compute the tax rates for column D. The factors for the brackets,  
22 from lowest to highest bracket, shall be .8297, 1.3838, and 1.6892;

23 (j) For taxable years beginning or deemed to begin on  
24 or after January 1, 2010, under the Internal Revenue Code of  
25 1986, as amended, the primary rate set by the Legislature shall

1 be multiplied by the following factors to compute the tax rates  
 2 for column D. The factors for the brackets, from lowest to highest  
 3 bracket, shall be .8297, 1.3838, and 1.6081;

4 ~~(f)~~ (k) The amounts for column C shall be rounded to the  
 5 nearest dollar, and the amounts in column D shall be rounded to  
 6 hundredths of one percent; and

7 ~~(g)~~ (l) One rate schedule shall be established for each  
 8 federal filing status.

9 (3) The tax rate schedules shall use the format set forth  
 10 in this subsection.

11	A	B	C	D	E
12	Taxable income	but not	pay	plus	of the
13	over	over			amount over

14 (4) The tax rate applied to other federal taxes included  
 15 in the computation of the Nebraska individual income tax shall be  
 16 ~~eight~~ seven times the primary rate.

17 (5) The Tax Commissioner shall prepare, from the rate  
 18 schedules, tax tables which can be used by a majority of the  
 19 taxpayers to determine their Nebraska tax liability. The design of  
 20 the tax tables shall be determined by the Tax Commissioner. The  
 21 size of the tax table brackets may change as the level of income  
 22 changes. The difference in tax between two tax table brackets shall  
 23 not exceed fifteen dollars. The Tax Commissioner may build the  
 24 personal exemption credit and standard deduction amounts into the

1 tax tables.

2 (6) The Tax Commissioner may require by rule and  
3 regulation that all taxpayers shall use the tax tables if their  
4 income is less than the maximum income included in the tax tables.

5 Sec. 14. Section 77-2716.01, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 77-2716.01 (1) Every individual shall be allowed to  
8 subtract from his or her income tax liability an amount for  
9 personal exemptions. The amount allowed to be subtracted shall  
10 be the credit amount for the year as provided in this section  
11 multiplied by the number of exemptions allowed on the federal  
12 return. For tax year 1993, the credit amount shall be sixty-five  
13 dollars; for tax year 1994, the credit amount shall be sixty-nine  
14 dollars; for tax year 1995, the credit amount shall be sixty-nine  
15 dollars; for tax year 1996, the credit amount shall be seventy-two  
16 dollars; for tax year 1997, the credit amount shall be eighty-six  
17 dollars; for tax year 1998, the credit amount shall be eighty-eight  
18 dollars; for tax year 1999, and each year thereafter, the credit  
19 amount shall be adjusted for inflation by the method provided in  
20 section 151 of the Internal Revenue Code of 1986, as amended. The  
21 eighty-eight-dollar credit amount shall be adjusted for cumulative  
22 inflation since 1998. If any credit amount is not an even dollar  
23 amount, the amount shall be rounded to the nearest dollar. For  
24 nonresident individuals and partial-year resident individuals, the  
25 personal exemption credit shall be subtracted as specified in

1 subsection (3) of section 77-2715.

2 ~~(2)(a) For tax years beginning or deemed to begin before~~  
3 ~~January 1, 2003, under the Internal Revenue Code of 1986, as~~  
4 ~~amended, every individual who did not itemize deductions on his~~  
5 ~~or her federal return shall be allowed to subtract from federal~~  
6 ~~adjusted gross income a standard deduction equal to the federal~~  
7 ~~standard deduction for the filing status used on the federal return~~  
8 ~~except as the amount is adjusted under section 77-2716.03.~~

9 ~~(b) (2)(a)~~ (2)(a) For tax years beginning or deemed to begin  
10 on or after January 1, 2003, and before January 1, 2004, under  
11 the Internal Revenue Code of 1986, as amended, every individual  
12 who did not itemize deductions on his or her federal return  
13 shall be allowed to subtract from federal adjusted gross income  
14 a standard deduction based on the filing status used on the  
15 federal return except as the amount is adjusted under section  
16 77-2716.03. The standard deduction shall be the smaller of the  
17 federal standard deduction actually allowed or (i) for single  
18 taxpayers four thousand seven hundred fifty dollars, (ii) for head  
19 of household taxpayers seven thousand dollars, (iii) for married  
20 filing jointly taxpayers seven thousand nine hundred fifty dollars,  
21 and (iv) for married filing separately taxpayers three thousand  
22 nine hundred seventy-five dollars. Taxpayers who are allowed  
23 additional federal standard deduction amounts because of age or  
24 blindness shall be allowed an increase in the Nebraska standard  
25 deduction for each additional amount allowed on the federal return.

1 The additional amounts shall be for married taxpayers, nine hundred  
2 fifty dollars, and for single or head of household taxpayers, one  
3 thousand one hundred fifty dollars.

4 (b) For tax years beginning or deemed to begin on or  
5 after January 1, 2007, under the Internal Revenue Code of 1986,  
6 as amended, every individual who did not itemize deductions on his  
7 or her federal return shall be allowed to subtract from federal  
8 adjusted gross income a standard deduction based on the filing  
9 status used on the federal return. The standard deduction shall  
10 be the smaller of the federal standard deduction actually allowed  
11 or (i) for single taxpayers three thousand dollars and (ii) for  
12 head of household taxpayers four thousand four hundred dollars.  
13 The standard deduction for married filing jointly taxpayers will be  
14 double the standard deduction for single, and for married filing  
15 separately taxpayers the standard deduction shall be the same  
16 as single. Taxpayers who are allowed additional federal standard  
17 deduction amounts because of age or blindness shall be allowed an  
18 increase in the Nebraska standard deduction for each additional  
19 amount allowed on the federal return. The additional amounts shall  
20 be for married taxpayers six hundred dollars and for single or head  
21 of household taxpayers seven hundred fifty dollars. The amounts in  
22 this subdivision will be indexed using 1987 as the base year.

23 (c) For tax years beginning or deemed to begin on or  
24 after January 1, 2004, 2007, the standard deduction amounts,  
25 including the additional standard deduction amounts, in ~~subdivision~~

1 ~~(2)(b)~~ of this section this subsection shall be adjusted for  
 2 inflation by the method provided in section 151 of the Internal  
 3 Revenue Code of 1986, as amended. If any amount is not a multiple  
 4 of ~~ten~~ fifty dollars, the amount shall be rounded to the next  
 5 ~~highest~~ lowest multiple of ~~ten~~ fifty dollars. ~~7~~ except that the  
 6 standard deduction for the married filing separately taxpayers may  
 7 be a multiple of five dollars.

8 (3) Every individual who itemized deductions on his or  
 9 her federal return shall be allowed to subtract from federal  
 10 adjusted gross income the greater of either the standard deduction  
 11 allowed in subsection (2) of this section or his or her federal  
 12 itemized deductions, except for the amount for state or local  
 13 income taxes included in federal itemized deductions before any  
 14 federal disallowance.

15 Sec. 15. Section 77-2716.03, Revised Statutes Cumulative  
 16 Supplement, 2006, is amended to read:

17 77-2716.03 (1) Any taxpayer whose federal adjusted gross  
 18 income is larger than ~~the threshold amount determined under section~~  
 19 ~~68 of the Internal Revenue Code of 1986, as amended, for the~~  
 20 ~~disallowance of itemized deductions~~ one hundred thousand dollars  
 21 shall calculate the amount of the excess. This amount shall be  
 22 indexed according to section 77-2716.01 with a base year of 1990.

23 (2) A taxpayer's tax liability shall be increased by  
 24 an amount determined under this subsection. The amount shall be  
 25 calculated by multiplying the maximum individual tax rate by ~~ten~~



1 twenty percent of the excess calculated in subsection (1) of this  
2 section and subtracting the amount of the tax from the tax tables  
3 on ~~ten~~ twenty percent of the excess from the result. The difference  
4 shall be the increase in the tax liability. If taxable income is  
5 less than ~~ten~~ twenty percent of the excess, the calculation in this  
6 subsection shall be made using taxable income.

7           Sec. 16. Section 77-3307, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9           77-3307 In any case where it is determined by the  
10 board that the decedent died domiciled in this state, no interest  
11 ~~otherwise imposed by sections 77-2010 and 77-2102,~~ for nonpayment  
12 of death taxes between the date of the agreement and of filing of  
13 the determination of the board as to domicile shall be charged.

14           Sec. 17. Section 77-3310, Reissue Revised Statutes of  
15 Nebraska, is amended to read:

16           77-3310 When the Nebraska taxing authority claims that  
17 a decedent was domiciled in this state at the time of his death  
18 and the taxing authorities of another state or states make a like  
19 claim on behalf of their state or states, the Nebraska taxing  
20 authority may make a written agreement of compromise with the other  
21 taxing authorities and the executor or administrator that a certain  
22 sum shall be accepted in full satisfaction of any and all death  
23 taxes imposed by this state, including any interest to the date of  
24 filing the agreement. The agreement shall also fix the amount to be  
25 accepted by the other states in full satisfaction of death taxes.

1 The executor or administrator is hereby authorized to make such  
2 agreement. Either the Nebraska taxing authority or the executor or  
3 administrator shall file the agreement, or a duplicate, with the  
4 authority that would be empowered to determine death taxes for this  
5 state if there had been no agreement, and thereupon the tax shall  
6 be deemed conclusively fixed as therein provided. Unless the tax  
7 is paid within ninety days after filing the agreement, interest  
8 as provided for by sections 77-2010 and 77-2102, shall thereafter  
9 accrue upon the amount fixed in the agreement but the time between  
10 the decedent's death and the filing shall not be included in  
11 computing such interest.

12 Sec. 18. Section 77-3313, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 77-3313 For purposes of the Uniform Act on Interstate  
15 Arbitration and Compromise of Death Taxes, (1) state shall mean  
16 means any state, territory, or possession of the United States  
17 and the District of Columbia and (2) Nebraska taxing authority  
18 shall mean ~~(a) the Attorney General or the Tax Commissioner for~~  
19 ~~state estate or generation-skipping transfer tax purposes and (b)~~  
20 means the Attorney General or the county attorney. ~~for Nebraska~~  
21 ~~inheritance tax purposes.~~

22 Sec. 19. The changes made in sections 30-103.01, 30-2209,  
23 30-2352, 77-2039, 77-3307, 77-3310, and 77-3313 by this legislative  
24 bill and the repeal of sections 30-24,114, 77-2040, and 77-2101 to  
25 77-2116 become operative for decedents dying on or after January 1,

1 2007, or for generation-skipping transfers made on or after January  
2 1, 2007.

3           Sec. 20. Sections 6, 7, 8, 9, 10, 11, 12, 21, and 23 of  
4 this act become operative on October 1, 2007. The other sections of  
5 this act become operative on their effective date.

6           Sec. 21. Original sections 77-2701.10, 77-2701.16,  
7 77-2701.34, 77-2703, 77-2703.01, 77-2704.33, and 77-2704.55,  
8 Revised Statutes Cumulative Supplement, 2006, are repealed.

9           Sec. 22. Original sections 30-103.01, 77-381, 77-2039,  
10 77-3307, 77-3310, and 77-3313, Reissue Revised Statutes of  
11 Nebraska, and sections 30-2209, 30-2352, 77-2715.02, 77-2716.01,  
12 and 77-2716.03, Revised Statutes Cumulative Supplement, 2006, are  
13 repealed.

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

17           Sec. 24. The following sections are outright repealed:  
18 Sections 30-24,114, 77-2040, 77-2101, 77-2101.02, 77-2102, 77-2104,  
19 77-2105, 77-2106, 77-2106.01, 77-2106.02, 77-2108, 77-2109,  
20 77-2110, 77-2111, 77-2112, 77-2113, 77-2114, and 77-2116, Reissue  
21 Revised Statutes of Nebraska, and sections 77-2101.01, 77-2101.03,  
22 and 77-2115, Revised Statutes Cumulative Supplement, 2006.