

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 648**

Introduced by Preister, 5; Dierks, 40; Dubas, 34; Karpisek, 32;  
Wallman, 30

Read first time January 17, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-2701, 77-2701.04, and 77-27,235, Revised Statutes  
3 Cumulative Supplement, 2006; to provide a sales tax  
4 exemption for community-based wind energy projects; to  
5 change a tax credit provision; to provide an operative  
6 date; and to repeal the original sections.

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

1 Section 1. Section 77-2701, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, and  
4 77-27,228 to 77-27,235 and section 3 of this act shall be known and  
5 may be cited as the Nebraska Revenue Act of 1967.

6 Sec. 2. Section 77-2701.04, Revised Statutes Cumulative  
7 Supplement, 2006, is amended to read:

8 77-2701.04 For purposes of sections 77-2701.04 to 77-2713  
9 and section 3 of this act, unless the context otherwise requires,  
10 the definitions found in sections 77-2701.05 to 77-2701.47 shall be  
11 used.

12 Sec. 3. Sales and use tax shall not be imposed on  
13 the gross receipts from the sale, lease, or rental of personal  
14 property for use in a community-based wind energy project. This  
15 exemption shall be conditioned upon filing requirements for the  
16 exemption as imposed by the Tax Commissioner. The requirements  
17 imposed by the Tax Commissioner shall be related to ensuring that  
18 the property purchased qualifies for the exemption. For purposes of  
19 this section:

20 (1) Community-based wind energy project means a project  
21 that consists of more than two turbines that has no single  
22 qualified owner owning more than fifteen percent of the project  
23 with at least thirty-three percent of the power purchase agreement  
24 payments flowing to the qualified owner or local community or  
25 that consist of one or two turbines owned by one or more

1 qualifying owners with at least thirty-three percent of the power  
2 purchase agreement payments flowing to the qualified owner or local  
3 community, which project has a resolution of support adopted by  
4 the county board of each county in which the project is to be  
5 located or by the tribal council for a project located within the  
6 boundaries of an Indian reservation;

7 (2) Qualified owner in a community-based energy  
8 development project means:

9 (a) A Nebraska resident;

10 (b) A limited liability company that is organized under  
11 the laws of this state and that is made up of members who are  
12 Nebraska residents;

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

15 (d) A Nebraska cooperative association other than a rural  
16 electric cooperative association or generation and transmission  
17 cooperative;

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

24 (f) A tribal council; and

25 (3) Wind energy project includes any materials used to

1 manufacture, install, construct, repair or replace a device, such  
2 as a wind charger, wind mill or wind turbine, that converts wind  
3 energy to a form of usable energy.

4           Sec. 4. Section 77-27,235, Revised Statutes Cumulative  
5 Supplement, 2006, is amended to read:

6           77-27,235 (1) Any producer of electricity generated by  
7 a new zero-emission facility shall earn a renewable energy tax  
8 credit. For electricity generated on or after July 14, 2006, and  
9 before ~~January 1, 2010,~~ October 1, 2007, the credit shall be  
10 .075 cent for each kilowatt-hour of electricity generated by a  
11 new zero-emission facility. For electricity generated on or after  
12 October 1, 2007, and before January 1, 2010, the credit shall  
13 be .1 cent for each kilowatt-hour of electricity generated by a  
14 new zero-emission facility. For electricity generated on or after  
15 January 1, 2010, and before January 1, 2013, the credit shall be  
16 ~~-.05~~ .075 cent per kilowatt-hour for electricity generated by a  
17 new zero-emission facility. For electricity generated on or after  
18 January 1, 2013, and before January 1, 2018, the credit shall be  
19 ~~-.025~~ .05 cent per kilowatt-hour for electricity generated by a new  
20 zero-emission facility. The credit may be earned for production  
21 of electricity for ten years after the date that the facility is  
22 placed in operation on or after July 14, 2006.

23           (2) For purposes of this section:

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

1 zero-emission facility;

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

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

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

1           (4) The Department of Revenue may adopt and promulgate  
2 rules and regulations to permit verification of the validity and  
3 timeliness of any renewable energy tax credit claimed.

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

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

12           (7) The credit allowed under this section may not be  
13 claimed by a producer who received a sales tax exemption under  
14 section 3 of this act for the new zero-emission facility.

15           Sec. 5. This act becomes operative on October 1, 2007.

16           Sec. 6. Original sections 77-2701, 77-2701.04, and  
17 77-27,235, Revised Statutes Cumulative Supplement, 2006, are  
18 repealed.