

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 386

Introduced by Pahls, 31.

Read first time January 16, 2009

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2701.02 and 77-2701.33, Reissue Revised Statutes
3 of Nebraska, and sections 60-301, 60-3,190, 77-2701,
4 77-2701.04, 77-2701.16, 77-2701.24, 77-2701.35, 77-2703,
5 77-2708, 77-2734.02, and 77-4212, Revised Statutes
6 Cumulative Supplement, 2008; to suspend motor vehicle
7 fees and taxes until January 1, 2015; to change
8 collection fees; to change and suspend sales tax
9 exemptions and certain credits until January 1, 2015; to
10 change tax rates as prescribed; to state intent relating
11 to property tax relief; to harmonize provisions; to
12 provide an operative date; and to repeal the original
13 sections.

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

1 Section 1. Section 60-301, Revised Statutes Cumulative
2 Supplement, 2008, is amended to read:

3 60-301 Sections 60-301 to 60-3,221 and sections 2 to 4
4 of this act shall be known and may be cited as the Motor Vehicle
5 Registration Act.

6 Sec. 2. The fees established in sections 60-3,110 to
7 60-3,112 shall not be collected commencing January 1, 2010, and
8 continuing until January 1, 2015. Commencing January 1, 2015, such
9 fees shall be collected.

10 Sec. 3. The fees established in sections 60-3,143 to
11 60-3,155 shall not be collected commencing January 1, 2010, and
12 continuing until January 1, 2015. Commencing January 1, 2015, such
13 fees shall be collected.

14 Sec. 4. The taxes imposed by sections 60-3,184 to
15 60-3,190 shall not be collected commencing January 1, 2010, and
16 continuing until January 1, 2015. Commencing January 1, 2015, such
17 taxes shall be collected.

18 Sec. 5. Section 60-3,190, Revised Statutes Cumulative
19 Supplement, 2008, is amended to read:

20 60-3,190 (1) A Commencing January 1, 2015, a motor
21 vehicle fee is imposed on all motor vehicles registered for
22 operation in this state. An owner of a motor vehicle which is
23 exempt from the imposition of a motor vehicle tax pursuant to
24 section 60-3,185 shall also be exempt from the imposition of the
25 motor vehicle fee imposed pursuant to this section.

1 (2) The county treasurer or designated county official
 2 shall annually determine the motor vehicle fee on each motor
 3 vehicle registered in the county based on the age of the motor
 4 vehicle pursuant to this section and cause a notice of the amount
 5 of the fee to be mailed to the registrant at the address shown upon
 6 his or her registration certificate. The notice shall be printed
 7 on a form prescribed by the department, shall be combined with the
 8 notice of the motor vehicle tax, and shall be mailed on or before
 9 the first day of the last month of the registration period.

10 (3) The motor vehicle fee schedules are set out in
 11 this subsection and subsection (4) of this section. Except for
 12 automobiles with a value when new of less than \$20,000, and for
 13 assembled automobiles, the fee shall be calculated by multiplying
 14 the base fee times the fraction which corresponds to the age
 15 category of the automobile as shown in the following table:

16	YEAR	FRACTION
17	First through fifth	1.00
18	Sixth through tenth	.70
19	Eleventh and over	.35

20 (4) The base fee shall be:

21 (a) Automobiles, with a value when new of less than
 22 \$20,000, and assembled automobiles - \$5

23 (b) Automobiles, with a value when new of \$20,000 through
 24 \$39,999 - \$20

1 (c) Automobiles, with a value when new of \$40,000 or more
2 - \$30

3 (d) Motorcycles - \$10

4 (e) Recreational vehicles and cabin trailers - \$10

5 (f) Trucks over seven tons and buses - \$30

6 (g) Trailers other than semitrailers - \$10

7 (h) Semitrailers - \$30.

8 (5) The motor vehicle tax, motor vehicle fee, and
9 registration fee shall be paid to the county treasurer or
10 designated official prior to the registration of the motor vehicle
11 for the following registration period. After retaining one percent
12 of the motor vehicle fee collected for costs, the remaining
13 proceeds shall be remitted to the State Treasurer for credit to
14 the Motor Vehicle Fee Fund. The State Treasurer shall return funds
15 from the Motor Vehicle Fee Fund remitted by a county treasurer or
16 designated county official which are needed for refunds or credits
17 authorized by law.

18 (6)(a) The Motor Vehicle Fee Fund is created. On or
19 before the last day of each calendar quarter, the State Treasurer
20 shall distribute all funds in the Motor Vehicle Fee Fund as
21 follows: (i) Fifty percent to the county treasurer of each county,
22 amounts in the same proportion as the most recent allocation
23 received by each county from the Highway Allocation Fund; and
24 (ii) fifty percent to the treasurer of each municipality, amounts
25 in the same proportion as the most recent allocation received by

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

5 (b) Funds from the Motor Vehicle Fee Fund shall be
6 considered local revenue available for matching state sources.

7 (c) All receipts by counties and municipalities from the
8 Motor Vehicle Fee Fund shall be used for road, bridge, and street
9 purposes.

10 (7) For purposes of subdivisions (4)(a), (b), (c), and
11 (f) of this section, automobiles or trucks includes all trucks
12 and combinations of trucks or truck-tractors, except those trucks,
13 trailers, or semitrailers registered under section 60-3,198, and
14 the fee is based on the gross vehicle weight rating as reported by
15 the manufacturer.

16 (8) Current model year vehicles are designated as
17 first-year motor vehicles for purposes of the schedules.

18 (9) When a motor vehicle is registered which is newer
19 than the current model year by the manufacturer's designation, the
20 motor vehicle is subject to the initial motor vehicle fee for six
21 registration periods.

22 (10) Assembled vehicles other than assembled automobiles
23 shall follow the schedules for the motor vehicle body type.

24 Sec. 6. Section 77-2701, Revised Statutes Cumulative
25 Supplement, 2008, is amended to read:

1 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to
2 77-27,236 and section 15 of this act shall be known and may be
3 cited as the Nebraska Revenue Act of 1967.

4 Sec. 7. Section 77-2701.02, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-2701.02 Pursuant to section 77-2715.01:

7 (1) Until July 1, 1998, the rate of the sales tax levied
8 pursuant to section 77-2703 shall be five percent;

9 (2) Commencing July 1, 1998, and until July 1, 1999, the
10 rate of the sales tax levied pursuant to section 77-2703 shall be
11 four and one-half percent;

12 (3) Commencing July 1, 1999, and until the start of the
13 first calendar quarter after July 20, 2002, the rate of the sales
14 tax levied pursuant to section 77-2703 shall be five percent; and

15 (4) Commencing on the start of the first calendar quarter
16 after July 20, 2002, and until July 1, 2010, the rate of the sales
17 tax levied pursuant to section 77-2703 shall be five and one-half
18 percent;~~;~~

19 (5) Commencing July 1, 2010, and until July 1, 2015, the
20 rate of the sales tax levied pursuant to section 77-2703 shall be
21 four and seventy-three hundredths percent; and

22 (6) Commencing July 1, 2015, the rate of the sales tax
23 levied pursuant to section 77-2703 shall be five and one-half
24 percent.

25 Sec. 8. Section 77-2701.04, Revised Statutes Cumulative

1 Supplement, 2008, is amended to read:

2 77-2701.04 For purposes of sections 77-2701.04 to 77-2713
3 and section 15 of this act, unless the context otherwise requires,
4 the definitions found in sections 77-2701.05 to 77-2701.53 shall be
5 used.

6 Sec. 9. Section 77-2701.16, Revised Statutes Cumulative
7 Supplement, 2008, is amended to read:

8 77-2701.16 (1) Gross receipts means the total amount of
9 the sale or lease or rental price, as the case may be, of the
10 retail sales of retailers.

11 (2) Gross receipts of every person engaged as a public
12 utility specified in this subsection, as a community antenna
13 television service operator, or as a satellite service operator or
14 any person involved in connecting and installing services defined
15 in subdivision (2)(a), (b), or (d) of this section means:

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

21 (ii) In the furnishing of mobile telecommunications
22 service as described in section 77-2703.04, the gross income
23 received from furnishing mobile telecommunications service that
24 originates and terminates in the same state to a customer with a
25 place of primary use in Nebraska;

1 (b) In the furnishing of telegraph service, the gross
2 income received from the furnishing of intrastate telegraph
3 services;

4 (c) In the furnishing of gas, electricity, sewer, and
5 water service, the gross income received from the furnishing of
6 such services upon billings or statements rendered to consumers for
7 such utility services;

8 (d) In the furnishing of community antenna television
9 service or satellite service, the gross income received from
10 the furnishing of such community antenna television service as
11 regulated under sections 18-2201 to 18-2205 or 23-383 to 23-388 or
12 satellite service; and

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

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

1 leasing, or otherwise providing intellectual or entertainment
2 property means:

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

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

13 (4) Gross receipts for providing a service means:

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

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

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

20 (d) The gross income received for installing and applying
21 tangible personal property if the sale of the property is subject
22 to tax. If any or all of the charge for installation is free to
23 the customer and is paid by a third-party service provider, any
24 tax due on that part of the activation commission, finder's fee,
25 installation charge, or similar payment made by the third-party

1 service provider shall be paid by the third-party service provider
2 and collected and remitted by the installer;

3 (e) The gross income received for services of
4 recreational vehicle parks;

5 (f) The gross income received for labor for repair or
6 maintenance services performed with regard to tangible personal
7 property the sale of which would be subject to sales and use taxes,
8 excluding motor vehicles, except as otherwise provided in section
9 77-2704.26 or 77-2704.50;

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

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

14 (5) Gross receipts includes the sale of admissions which
15 means the right or privilege to have access to or to use a place
16 or location. An admission includes a membership that allows access
17 to or use of a place or location, but which membership does not
18 include the right to hold office, vote, or change the policies of
19 the organization. When an admission to an activity or a membership
20 constituting an admission pursuant to this subsection is combined
21 with the solicitation of a contribution, the portion or the amount
22 charged representing the fair market price of the admission shall
23 be considered a retail sale subject to the tax imposed by section
24 77-2703. The organization conducting the activity shall determine
25 the amount properly attributable to the purchase of the privilege,

1 benefit, or other consideration in advance, and such amount shall
2 be clearly indicated on any ticket, receipt, or other evidence
3 issued in connection with the payment.

4 (6) Gross receipts includes the sale of live plants
5 incorporated into real estate except when such incorporation is
6 incidental to the transfer of an improvement upon real estate or
7 the real estate.

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

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

23 (9) Gross receipts includes the retail sale of digital
24 audio works, digital audiovisual works, digital codes, and digital
25 books delivered electronically if the products are taxable when

1 delivered on tangible storage media. A sale includes the transfer
2 of a permanent right of use, the transfer of a right of use that
3 terminates on some condition, and the transfer of a right of use
4 conditioned upon the receipt of continued payments.

5 (10) ~~Gross~~ Commencing with any transaction occurring on
6 or after January 1, 2015, gross receipts does not include:

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

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

14 Sec. 10. Section 77-2701.24, Revised Statutes Cumulative
15 Supplement, 2008, is amended to read:

16 77-2701.24 Occasional sale means:

17 (1) A sale, but not a lease or rental, of property which
18 is the subject of any intercompany sale or transfer involving
19 any parent, subsidiary, or brother-sister company relationship
20 under section 77-2704.28 and which was either originally acquired
21 prior to June 1, 1967, or, if acquired thereafter, the seller or
22 transferor directly or indirectly has previously paid a sales or
23 use tax thereon, including:

24 (a) From one corporation to another corporation
25 pursuant to a reorganization. For purposes of this subdivision,

1 reorganization means a statutory merger or consolidation or the
2 acquisition by a corporation of substantially all of the properties
3 of another corporation when the consideration is solely all or a
4 part of the voting stock of the acquiring corporation or of its
5 parent or subsidiary corporation;

6 (b) In connection with the winding up, dissolution, or
7 liquidation of a corporation only when there is a distribution of
8 the property of such corporation to the shareholders in kind if
9 the portion of the property so distributed to the shareholder is
10 substantially in proportion to the share of stock or securities
11 held by the shareholder;

12 (c) To a corporation for the purpose of organization of
13 such corporation or the contribution of additional capital to such
14 corporation when the former owners of the property transferred
15 are immediately after the transfer in control of the corporation
16 and the stock or securities received by each is substantially in
17 proportion to his or her interest in the property prior to the
18 transfer;

19 (d) To a partnership in the organization of such
20 partnership if the former owners of the property transferred
21 are immediately after the transfer members of such partnership and
22 the interest in the partnership received by each is substantially
23 in proportion to his or her interest in the property prior to the
24 transfer;

25 (e) From a partnership to the members thereof when made

1 in kind in the dissolution of such partnership if the portion of
2 the property so distributed to the members of the partnership is
3 substantially in proportion to the interest in the partnership held
4 by the members;

5 (f) To a limited liability company in the organization of
6 such limited liability company if the former owners of the property
7 transferred are immediately after the transfer members of such
8 limited liability company and the interest in the limited liability
9 company received by each is substantially in proportion to his or
10 her interest in the property prior to the transfer;

11 (g) From a limited liability company to the members
12 thereof when made in kind in the dissolution of such limited
13 liability company if the portion of the property so distributed to
14 the members of the limited liability company is substantially in
15 proportion to the interest in the limited liability company held by
16 the members;

17 (h) From one limited liability company to another limited
18 liability company pursuant to a reorganization; or

19 (i) Any transaction between two persons that qualifies as
20 a tax-free transaction under the Internal Revenue Code;

21 (2) A Commencing with any transaction occurring on or
22 after January 1, 2015, a sale of household goods, personal effects,
23 and services if each of the following conditions is met and if any
24 one condition is not met then the entire gross receipts shall be
25 subject to the tax imposed by section 77-2703:

1 (a) Such sales are by an individual at his or her
2 residence or if more than one individual's property is involved
3 such sales are by one of the individuals involved at the residence
4 of one of the individuals;

5 (b) Such sales do not occur at any residence for more
6 than three days during a calendar year;

7 (c) Such individual or individuals or any member of any
8 of their households does not conduct or engage in a trade or
9 business in which similar items are sold or services provided;

10 (d) Such property sold was originally acquired for and
11 used for personal use or the service provided may be performed at
12 any individual residence without specialized equipment or supplies;
13 and

14 (e) Such property is not otherwise excepted from the
15 definition of occasional sale;

16 (3) Commencing with any transaction occurring on or after
17 ~~October 1, 1985,~~ January 1, 2015, any sale of business or farm
18 machinery and equipment if each of the following conditions is met
19 and if any one condition is not met the entire gross receipts shall
20 be subject to the tax imposed by section 77-2703:

21 (a) Such machinery or equipment was used by the seller or
22 seller's predecessor in a sale described in subdivision (1) of this
23 section as a depreciable capital asset in connection with the farm
24 or business for a period of at least one year;

25 (b) Such property was originally acquired prior to June

1 1, 1967, or if acquired thereafter, the seller or seller's
2 predecessor in a sale described in subdivision (1) of this section
3 directly or indirectly has previously paid a sales or use tax
4 thereon; and

5 (c) Such property is not otherwise excepted from the
6 definition of occasional sale;

7 (4) ~~Commencing October 1, 1985,~~ Commencing with any
8 transaction occurring on or after January 1, 2015, a sale by
9 an organization created exclusively for religious purposes or an
10 agent of the organization for such sale if each of the following
11 conditions is met and if any one condition is not met then the
12 entire gross receipts shall be subject to the tax imposed by
13 section 77-2703:

14 (a) All sales occur during an activity conducted by such
15 organization or, if more than one organization is involved, by one
16 of the organizations owning property being sold;

17 (b) The organization only sells property it owns or
18 provides the service during one such activity in a calendar year;
19 and

20 (c) The activity does not last longer than three
21 consecutive days; and

22 (5) Any sale that is made in connection with the sale
23 to a single buyer of all or substantially all of a trade or
24 business if the seller or seller's predecessor in a sale described
25 in subdivision (1) of this section directly or indirectly has

1 previously paid a sales or use tax thereon. ~~This subdivision shall~~
2 ~~apply to any transaction occurring on or after October 1, 1985.~~

3 ~~Commencing October 1, 1985, occasional~~ Occasional sale
4 does not include any sale directly by or any sale which is
5 supervised or aided by an auctioneer or an agent or employee of an
6 auctioneer.

7 Except for a sale listed in subdivision (1) of this
8 section, an occasional sale does not mean any sale of motor
9 vehicles, semitrailers, or trailers as defined in the Motor Vehicle
10 Registration Act or any sale of a motorboat as defined in section
11 37-1204.

12 Sec. 11. Section 77-2701.33, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 77-2701.33 Sale means any transfer of title or possession
15 or segregation in contemplation of transfer of title or possession,
16 exchange, barter, lease, or rental, conditional or otherwise, in
17 any manner or by any means, of property for a consideration or the
18 provision of service for a consideration. Sale includes, but is not
19 limited to:

20 (1) The producing, fabricating, processing, printing,
21 or imprinting of property for a consideration for consumers who
22 furnish either directly or indirectly the materials used in the
23 producing, fabricating, processing, printing, or imprinting; and

24 (2) The renting or furnishing for periods of less than
25 thirty days of any room or rooms, lodgings, or accommodations in

1 any hotel, motel, inn, tourist camp, tourist cabin, or any other
2 place, except commencing January 1, 2015, a health care facility
3 licensed under the Health Care Facility Licensure Act in which
4 rooms, lodgings, or accommodations are regularly furnished for a
5 consideration or a facility operated by an educational institution
6 established under Chapter 79 or Chapter 85 in which rooms are
7 regularly used to house students for a consideration for periods in
8 excess of thirty days.

9 Sec. 12. Section 77-2701.35, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 77-2701.35 (1) Sales price applies to the measure subject
12 to sales tax and means the total amount of consideration, including
13 cash, credit, property, and services, for which personal property
14 or services are sold, leased, or rented, valued in money, whether
15 received in money or otherwise, without any deduction for the
16 following:

17 (a) The seller's cost of the property sold;

18 (b) The cost of materials used, the cost of labor or
19 service, interest, losses, all costs of transportation to the
20 seller, all taxes imposed on the seller, and any other expense of
21 the seller;

22 (c) Charges by the seller for any services necessary to
23 complete the sale;

24 (d) Delivery charges; and

25 (e) Installation charges.

1 (2) Sales price includes consideration received by the
2 seller from third parties if:

3 (a) The seller actually receives consideration from a
4 party other than the purchaser and the consideration is directly
5 related to a price reduction or discount on the sale;

6 (b) The seller has an obligation to pass the price
7 reduction or discount through to the purchaser;

8 (c) The amount of the consideration attributable to the
9 sale is fixed and determinable by the seller at the time of the
10 sale of the item to the purchaser; and

11 (d) One of the following criteria is met:

12 (i) The purchaser presents a coupon, certificate, or
13 other documentation to the seller to claim a price reduction
14 or discount when the coupon, certificate, or documentation is
15 authorized, distributed, or granted by a third party with the
16 understanding that the third party will reimburse any seller to
17 whom the coupon, certificate, or documentation is presented;

18 (ii) The purchaser identifies himself or herself to the
19 seller as a member of a group or organization entitled to a price
20 reduction or discount. A preferred customer card that is available
21 to any patron does not constitute membership in such a group; or

22 (iii) The price reduction or discount is identified as a
23 third-party price reduction or discount on the invoice received by
24 the purchaser or on a coupon, certificate, or other documentation
25 presented by the purchaser.

1 (3) Sales price does not include:

2 (a) Any discounts, including cash, terms, or coupons that
3 are not reimbursed by a third party that are allowed by a seller
4 and taken by a purchaser on a sale;

5 (b) Interest, financing, and carrying charges from credit
6 extended on the sale of personal property or services, if the
7 amount is separately stated on the invoice, bill of sale, or
8 similar document given to the purchaser;

9 (c) Any taxes legally imposed directly on the consumer
10 that are separately stated on the invoice, bill of sale, or similar
11 document given to the purchaser; and

12 (d) ~~Credit~~ Commencing with any transaction occurring on
13 or after January 1, 2015, credit for any trade-in as follows:

14 (i) The value of property taken by a seller in trade as
15 all or a part of the consideration for a sale of property of any
16 kind or nature; or

17 (ii) The value of a motor vehicle or motorboat taken by
18 any person in trade as all or a part of the consideration for a
19 sale of another motor vehicle or motorboat.

20 Sec. 13. Section 77-2703, Revised Statutes Cumulative
21 Supplement, 2008, 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 as a
2 satellite service operator, any person involved in the connecting
3 and installing of the services defined in subdivision (2)(a), (b),
4 (d), or (e) of section 77-2701.16, or every person engaged as
5 a retailer of intellectual or entertainment properties referred
6 to in subsection (3) of section 77-2701.16; the gross receipts
7 from the sale of admissions in this state; the gross receipts
8 from the sale of warranties, guarantees, service agreements, or
9 maintenance agreements when the items covered are subject to tax
10 under this section; beginning January 1, 2008, the gross receipts
11 from the sale of bundled transactions when one or more of the
12 products included in the bundle are taxable; the gross receipts
13 from the provision of services defined in subsection (4) of section
14 77-2701.16; and the gross receipts from the sale of products
15 delivered electronically as described in subsection (9) of section
16 77-2701.16. 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 time
18 the gross receipts are realized under the accounting basis used by
19 the retailer to maintain his or her books and records.

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

1 to this state.

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

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

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

1 provided in section 77-3,117 applies.

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

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

21 (g) In the rental or lease of automobiles, trucks,
22 trailers, semitrailers, and truck-tractors as defined in the Motor
23 Vehicle Registration Act, the tax shall be collected by the lessor
24 on the rental or lease price at the tax rate in effect on the date
25 the automobile, truck, trailer, semitrailer, or truck-tractor is

1 delivered to the lessee, except as otherwise provided within this
2 section.

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

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

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

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

25 (iv) The Tax Commissioner by rule and regulation shall

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

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

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

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

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

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

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

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

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

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

24 (a) Every person storing, using, or otherwise consuming
25 in this state property purchased from a retailer or leased or

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

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

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

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

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

1 State of Nebraska if such collector violates any rule, regulation,
2 or directive of the Tax Commissioner.

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

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

17 Sec. 14. Section 77-2708, Revised Statutes Cumulative
18 Supplement, 2008, is amended to read:

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

24 (b) (i) On or before the twenty-fifth day of the month
25 following each monthly period or such other period as the Tax

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

24 The Tax Commissioner may adopt and promulgate rules
25 and regulations to allow annual, semiannual, or quarterly returns

1 for any retailer making monthly remittances or payments of sales
2 and use taxes by electronic funds transfer or for any retailer
3 remitting tax to the state pursuant to the streamlined sales and
4 use tax agreement. Such rules and regulations may establish a
5 method of determining the amount of the payment that will result in
6 substantially all of the tax liability being paid each quarter. At
7 least once each year, the difference between the amount paid and
8 the amount due shall be reconciled. If the difference is more than
9 ten percent of the amount paid, a penalty of fifty percent of the
10 unpaid amount shall be imposed.

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

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

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

1 a sales tax permit or a surety bond in accordance with this section
2 shall result in the payment on the next required filing date of
3 all sales taxes not previously remitted. When the retailer has
4 adopted one basis or the other of reporting credit, conditional, or
5 installment sales and paying the tax thereon, he or she will not be
6 permitted to change from that basis without first having notified
7 the Tax Commissioner.

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

22 (d) ~~For all sales tax collected prior to October 1, 2002,~~
23 ~~the taxpayer shall deduct and withhold, from the taxes otherwise~~
24 ~~due from him or her on his or her tax return, two and one-half~~
25 ~~percent of the first three thousand dollars remitted each month and~~

1 ~~one-half of one percent of all amounts in excess of three thousand~~
2 ~~dollars remitted each month to reimburse himself or herself for~~
3 ~~the cost of collecting the tax. For all sales tax collected on~~
4 ~~and after October 1, 2002, the The taxpayer shall deduct and~~
5 withhold, from the taxes otherwise due from him or her on his or
6 her tax return, ~~two and one-half~~ five percent of the first ~~three~~
7 one thousand five hundred dollars remitted each month to reimburse
8 himself or herself for the cost of collecting the tax. Taxpayers
9 filing a combined return as allowed by subdivision (1)(b)(ii) of
10 this subsection shall compute such collection fees on the basis of
11 the receipts and liability of each licensed location.

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

22 (b) No refund shall be allowed unless a claim therefor
23 is filed with the Tax Commissioner by the person who made the
24 overpayment or his or her attorney, executor, or administrator
25 within three years from the required filing date following the

1 close of the period for which the overpayment was made, within six
2 months after any determination becomes final under section 77-2709,
3 or within six months from the date of overpayment with respect
4 to such determinations, whichever of these three periods expires
5 later, unless the credit relates to a period for which a waiver has
6 been given. Failure to file a claim within the time prescribed in
7 this subsection shall constitute a waiver of any demand against the
8 state on account of overpayment.

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

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

23 (e) Within thirty days after disallowing any claim in
24 whole or in part, the Tax Commissioner shall serve notice of his or
25 her action on the claimant in the manner prescribed for service of

1 notice of a deficiency determination.

2 (f) Within thirty days after the mailing of the notice
3 of the Tax Commissioner's action upon a claim filed pursuant
4 to the Nebraska Revenue Act of 1967, the action of the Tax
5 Commissioner shall be final unless the taxpayer seeks review of the
6 Tax Commissioner's determination as provided in section 77-27,127.

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

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

24 (i) The Tax Commissioner may recover any refund or part
25 thereof which is erroneously made and any credit or part thereof

1 which is erroneously allowed by issuing a deficiency determination
2 within one year from the date of refund or credit or within the
3 period otherwise allowed for issuing a deficiency determination,
4 whichever expires later.

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

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

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

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

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

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

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

1 Sec. 15. The following sections shall not apply to
2 transactions occurring on and after January 1, 2010, and before
3 January 1, 2015; such sections shall apply to transactions
4 occurring on and after January 1, 2015:

5 Sections: 77-2704.03 to 77-2704.05, 77-2704.07 to
6 77-2704.17, 77-2704.19 to 77-2704.30, 77-2704.32, 77-2704.36,
7 77-2704.38 to 77-2704.48, 77-2704.50 to 77-2704.54, and 77-2704.56
8 to 77-2704.59.

9 Sec. 16. Section 77-2734.02, Revised Statutes Cumulative
10 Supplement, 2008, is amended to read:

11 77-2734.02 (1) Except as provided in subsection (2) of
12 this section and except for tax years beginning on or after January
13 1, 2009, and before January 1, 2015, a tax is hereby imposed for
14 each taxable year on the taxable income of every corporate taxpayer
15 that is doing business in this state at a rate equal to one
16 hundred fifty and eight-tenths percent of the primary rate imposed
17 on individuals under section 77-2701.01 on the first one hundred
18 thousand dollars of taxable income and at the rate of two hundred
19 eleven percent of such rate on all taxable income in excess of one
20 hundred thousand dollars. The resultant rates shall be rounded to
21 the nearest one hundredth of one percent. For tax years beginning
22 on or after January 1, 2009, and before January 1, 2015, the rate
23 shall be zero.

24 For corporate taxpayers with a fiscal year that does not
25 coincide with the calendar year, the individual rate used for this

1 subsection shall be the rate in effect on the first day, or the day
2 deemed to be the first day, of the taxable year.

3 (2) An insurance company shall be subject to taxation
4 at the lesser of the rate described in subsection (1) of this
5 section or the rate of tax imposed by the state or country in which
6 the insurance company is domiciled if the insurance company can
7 establish to the satisfaction of the Tax Commissioner that it is
8 domiciled in a state or country other than Nebraska that imposes
9 on Nebraska domiciled insurance companies a retaliatory tax against
10 the tax described in subsection (1) of this section.

11 (3) For a corporate taxpayer that is subject to tax in
12 another state, its taxable income shall be the portion of the
13 taxpayer's federal taxable income, as adjusted, that is determined
14 to be connected with the taxpayer's operations in this state
15 pursuant to sections 77-2734.05 to 77-2734.15.

16 (4) Each corporate taxpayer shall file only one income
17 tax return for each taxable year.

18 Sec. 17. Section 77-4212, Revised Statutes Cumulative
19 Supplement, 2008, is amended to read:

20 77-4212 (1) For tax year 2007, the amount of relief
21 granted under the Property Tax Credit Act shall be one hundred five
22 million dollars. For tax year 2008, the amount of relief granted
23 under the act shall be one hundred fifteen million dollars. It is
24 the intent of the Legislature to fund the Property Tax Credit Act
25 for tax years after tax year 2008 using available revenue. It is

1 the intent of the Legislature to fund the act for tax years 2010
2 through 2015 with the amount needed to reduce property taxes to
3 zero. The relief shall be in the form of a property tax credit
4 which appears on the property tax statement.

5 (2) To determine the amount of the property tax credit,
6 the county treasurer shall multiply the amount disbursed to the
7 county under subsection (4) of this section by the ratio of the
8 real property valuation of the parcel to the total real property
9 valuation in the county. The amount determined shall be the
10 property tax credit for the property.

11 (3) If the real property owner qualifies for a homestead
12 exemption under sections 77-3501 to 77-3529, the owner shall also
13 be qualified for the relief provided in the act to the extent of
14 any remaining liability after calculation of the relief provided by
15 the homestead exemption. If the credit results in a property tax
16 liability on the homestead that is less than zero, the amount of
17 the credit which cannot be used by the taxpayer shall be returned
18 to the State Treasurer by July 1 of the year the amount disbursed
19 to the county was disbursed. The State Treasurer shall immediately
20 credit any funds returned under this section to the Property Tax
21 Credit Cash Fund.

22 (4) The amount disbursed to each county shall be equal to
23 the amount available for disbursement determined under subsection
24 (1) of this section multiplied by the ratio of the real property
25 valuation in the county to the real property valuation in the

1 state. By September 15, the Property Tax Administrator shall
2 determine the amount to be disbursed under this subsection to each
3 county and certify such amounts to the State Treasurer and to each
4 county. The disbursements to the counties shall occur in two equal
5 payments, the first on or before January 31 and the second on or
6 before April 1. After retaining one percent of the receipts for
7 costs, the county treasurer shall allocate the remaining receipts
8 to each taxing unit levying taxes on taxable property in the
9 tax district in which the real property is located in the same
10 proportion that the levy of such taxing unit bears to the total
11 levy on taxable property of all the taxing units in the tax
12 district in which the real property is located.

13 (5) The State Treasurer shall transfer from the General
14 Fund to the Property Tax Credit Cash Fund one hundred five million
15 dollars by August 1, 2007, and one hundred fifteen million dollars
16 by August 1, 2008.

17 (6) The Legislature shall have the power to transfer
18 funds from the Property Tax Credit Cash Fund to the General Fund.

19 Sec. 18. This act becomes operative on January 1, 2010.

20 Sec. 19. Original sections 77-2701.02 and 77-2701.33,
21 Reissue Revised Statutes of Nebraska, and sections 60-301,
22 60-3,190, 77-2701, 77-2701.04, 77-2701.16, 77-2701.24, 77-2701.35,
23 77-2703, 77-2708, 77-2734.02, and 77-4212, Revised Statutes
24 Cumulative Supplement, 2008, are repealed.