

AMENDMENTS TO LB 104

(Amendments to Final Reading copy)

Introduced by Schilz

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

3           Section 1. Section 70-1903, Revised Statutes Cumulative  
4 Supplement, 2012, is amended to read:

5           70-1903 For purposes of the Rural Community-Based Energy  
6 Development Act:

7           (1) C-BED project or community-based energy development  
8 project means a new ~~wind~~ energy generation project using wind,  
9 solar, biomass, or landfill gas as the fuel source that:

10           (a) Has an ownership structure as follows: ~~(i) For a~~  
11 ~~C-BED project that consists of more than two turbines,~~ has one  
12 ~~or more qualified owners with no single individual qualified~~  
13 ~~owner owning directly or indirectly more than fifteen percent~~  
14 ~~of the project and with at least thirty-three~~ (i) at least ten  
15 percent of the gross power purchase agreement payments flowing  
16 to the qualified owner or owners or as payments to the local  
17 community for any C-BED project on which onsite physical work  
18 of a significant nature has begun prior to January 1, 2014, and  
19 continuous construction occurs to completion of the C-BED project,  
20 (ii) at least fifteen percent of the gross power purchase agreement  
21 payments flowing to the qualified owner or owners or as payments to  
22 the local community for any C-BED project on which onsite physical

1 work of a significant nature has begun on or after January 1, 2014,  
2 and prior to January 1, 2015, and continuous construction occurs to  
3 completion of the C-BED project, or (iii) at least twenty percent  
4 of the gross power purchase agreement payments flowing to the  
5 qualified owner or owners or as payments to the local community for  
6 any C-BED project on which onsite physical work of a significant  
7 nature has begun on or after January 1, 2015; ~~or~~ and

8 ~~(ii) For a C-BED project that consists of one or~~  
9 ~~two turbines, has one or more qualified owners with at least~~  
10 ~~thirty-three percent of the gross power purchase agreement payments~~  
11 ~~flowing to a qualified owner or owners or local community; and~~

12 (b) Has a resolution of support adopted:

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

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

17 ~~(2) Debt financing payments means principal, interest,~~  
18 ~~and other typical financing costs paid by the C-BED project company~~  
19 ~~to one or more third-party financial institutions for the financing~~  
20 ~~or refinancing of the construction of the C-BED project. Debt~~  
21 ~~financing payments does not include the repayment of principal at~~  
22 ~~the time of a refinancing;~~

23 (2) Continuous construction has the same meaning as set  
24 forth in Internal Revenue Service Notice 2013-29;

25 (3) Contributions to an employee ownership arrangement  
26 means contributions of cash or equity interests to an arrangement  
27 meeting the requirements of section 4975(e)(7) of the Internal

1 Revenue Code or requirements specified by rules and regulations  
2 adopted and promulgated by the Department of Revenue, the object  
3 of which is to provide substantially all onsite maintenance and  
4 operations employees with:

5 (a) Equitable ownership of stock or equity ownership  
6 interests in the owner of the C-BED project;

7 (b) The right to redeem stock or equity ownership  
8 interests after severing employment at fair market value,  
9 determined by independent appraisal if the stock or equity  
10 ownership interests are not publicly traded; and

11 (c) Rights in relation to the owner of the C-BED project  
12 similar to the rights of a participant in an employee stock  
13 ownership plan described in section 4975(e)(7) of the Internal  
14 Revenue Code.

15 ~~(3)~~ (4) Electric utility means an electric supplier that:

16 (a) Owns more than one hundred miles of  
17 one-hundred-fifteen-kilovolt or larger transmission lines in the  
18 State of Nebraska;

19 (b) Owns more than two hundred megawatts of electric  
20 generating facilities; and

21 (c) Has the obligation to directly serve more than two  
22 hundred megawatts of wholesale or retail electric load in the State  
23 of Nebraska;

24 ~~(4)~~ (5) Gross power purchase agreement payments means the  
25 total amount of payments during the life first twenty years of  
26 the agreement; ~~For power purchase agreements entered into on or~~  
27 before December 31, 2011, if the qualified owners have a combined

1 ~~total of at least thirty-three percent of the equity ownership in~~  
2 ~~the C-BED project, gross power purchase agreement payments shall be~~  
3 ~~reduced by the debt financing payments, and~~

4 (6) Onsite physical work of a significant nature means  
5 physical work of a significant nature as defined in Internal  
6 Revenue Service Notice 2013-29, which occurs at or on the location  
7 of the C-BED project;

8 (7) Payments to the local community include, but are not  
9 limited to:

10 (a) Lease and easement payments to property owners made  
11 as part of a C-BED project;

12 (b) Contract payments for concrete, steel, gravel,  
13 towers, turbines, blades, wire, or engineering, procurement,  
14 construction, geotechnical, environmental, meteorological, or legal  
15 services or payments for other components, equipment, materials,  
16 or services that are necessary to permit or construct the C-BED  
17 project and that are provided by a company that has been organized  
18 or incorporated in Nebraska under Nebraska law for a purpose or  
19 purposes other than to participate in a C-BED project for at  
20 least twelve months prior to the date of the application for  
21 certification as a C-BED project;

22 (c) Payments for physical parts, materials, or components  
23 that are manufactured, assembled, or fabricated in Nebraska that  
24 are not described in subdivision (7)(a) or (b) of this section; and

25 (d) Contributions to an employee ownership arrangement,  
26 multiplied by a factor of four, benefiting employees of the C-BED  
27 project entity or a related entity.

1           Such payments need not be made directly from power  
2 purchase agreement revenue and may be made from other funds in  
3 advance of receiving power purchase agreement revenue; and

4           ~~(5)~~ (8) Qualified owner means:

5           (a) A Nebraska resident;

6           (b) A limited liability company that is organized under  
7 the Limited Liability Company Act or the Nebraska Uniform Limited  
8 Liability Company Act and that is made up of members who are  
9 Nebraska residents;

10           (c) A Nebraska nonprofit corporation organized under the  
11 Nebraska Nonprofit Corporation Act;

12           (d) An electric supplier as defined in section  
13 70-1001.01, except that ownership in a single C-BED project is  
14 limited to no more than:

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

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

19           (e) A tribal council; ~~or~~

20           (f) A domestic corporation organized in Nebraska under  
21 the Business Corporation Act and domiciled in Nebraska; or

22           (g) A cooperative corporation organized under sections  
23 21-1301 to 21-1306 and domiciled in Nebraska.

24           Sec. 2. Section 70-1904, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

26           70-1904 ~~(1)~~ A C-BED project developer and an electric  
27 utility are authorized to negotiate in good faith mutually

1 ~~agreeable power purchase agreement terms.~~

2 ~~(2) (1) A qualified owner or any combination of qualified~~  
3 ~~owners may develop a C-BED project with an equity partner that~~  
4 ~~is not a qualified owner. 7 if not more than sixty-seven~~  
5 ~~percent of the gross power purchase agreement payments flow to~~  
6 ~~the nonqualified owners.~~

7 ~~(3) (2) Except for an inherited interest, the transfer of~~  
8 ~~the interest of a qualified owner in a C-BED project to any person~~  
9 ~~other than a another qualified owner or other qualified owners~~  
10 ~~is prohibited during the initial ten years of the power purchase~~  
11 ~~agreement.~~

12 ~~(4) (3) A C-BED project that is operating under a power~~  
13 ~~purchase agreement is not eligible for any applicable net energy~~  
14 ~~billing.~~

15 ~~(5) (4) A C-BED project shall be subject to approval~~  
16 ~~by the Nebraska Power Review Board in accordance with Chapter 70,~~  
17 ~~article 10, or shall receive certification as a qualifying facility~~  
18 ~~in accordance with the federal Public Utility Regulatory Policies~~  
19 ~~Act of 1978, 16 U.S.C. 2601 et seq., with written notice of such~~  
20 ~~certification provided to the Nebraska Power Review Board.~~

21 ~~(6) (5) A C-BED project developer shall notify ~~the~~ any~~  
22 ~~electric utility that has a power purchase agreement with a the~~  
23 ~~C-BED project if there is a change in project ownership which makes~~  
24 ~~the project no longer eligible as a C-BED project.~~

25 Sec. 3. Section 70-1909, Reissue Revised Statutes of  
26 Nebraska, is amended to read:

27 70-1909 An electric supplier as defined in section

1 70-1001.01 may agree to limit its exercise of the power of  
2 eminent domain to acquire a C-BED project ~~which is a renewable~~  
3 ~~energy generation facility producing electricity with wind and any~~  
4 related facilities if such electric supplier enters into a contract  
5 to purchase output from such ~~facility~~ C-BED project for a term of  
6 ten years or more.

7 Sec. 4. Section 77-2704.57, Revised Statutes Cumulative  
8 Supplement, 2012, is amended to read:

9 77-2704.57 (1) ~~Sales~~ All sales and use tax shall not be  
10 imposed on the gross receipts from the sale, lease, or rental of  
11 personal property for use in a C-BED project or community-based  
12 energy development project shall be refunded to the taxpayer. This  
13 ~~exemption refund~~ shall be conditioned upon filing requirements  
14 for the ~~exemption refund~~ as imposed by the Tax Commissioner. The  
15 requirements imposed by the Tax Commissioner shall be related to  
16 ensuring that the property purchased qualifies for the ~~exemption-~~  
17 refund, including, but not limited to, evidence confirming that  
18 the entire C-BED project has been fully commissioned or placed  
19 into commercial operation. The Tax Commissioner may require the  
20 filing of the documents showing compliance with section 70-1907,  
21 the organization of the project, the distribution of the payments,  
22 the power purchase agreements, the project pro forma, articles of  
23 incorporation, operating agreements, and any amendments or changes  
24 to these documents during the life of the power purchase agreement.

25 (2) The Tax Commissioner shall notify an electric utility  
26 that has a power purchase agreement with a C-BED project if there  
27 is a change in project ownership which makes the project no longer

1 eligible as a C-BED project. Purchase of a C-BED project by an  
2 electric utility prior to the end of the power purchase agreement  
3 disqualifies the C-BED project for the ~~exemption~~, refund, but the  
4 Department of Revenue may not recover the amount of ~~the sales and~~  
5 ~~use tax~~ any refund that was ~~not~~ paid by the project prior to the  
6 purchase.

7 (3) For purposes of this section, the terms: (a) C-BED  
8 project or community-based energy development project, (b) gross  
9 power purchase agreement payments, (c) payments to the local  
10 community, and (d) qualified owner have the definitions found in  
11 section 70-1903. means a new wind energy project that:

12 (i) Has an ownership structure as follows:

13 (A) For a C-BED project that consists of more than  
14 two turbines, has one or more qualified owners with no single  
15 individual qualified owner owning directly or indirectly more than  
16 fifteen percent of the project and with at least thirty-three  
17 percent of the gross power purchase agreement payments flowing to  
18 the qualified owner or owners or local community; or

19 (B) For a C-BED project that consists of one or  
20 two turbines, has one or more qualified owners with at least  
21 thirty-three percent of the gross power purchase agreement payments  
22 flowing to a qualified owner or owners or local community; and

23 (ii) Has a resolution of support adopted:

24 (A) By the county board of each county in which the C-BED  
25 project is to be located; or

26 (B) By the tribal council for a C-BED project located  
27 within the boundaries of an Indian reservation;



1           ~~(b) Debt financing payments means principal, interest,~~  
2           ~~and other typical financing costs paid by the C-BED project company~~  
3           ~~to one or more third-party financial institutions for the financing~~  
4           ~~or refinancing of the construction of the C-BED project. Debt~~  
5           ~~financing payments does not include the repayment of principal at~~  
6           ~~the time of a refinancing.~~

7           ~~(c) New wind energy project means any tangible~~  
8           ~~personal property incorporated into the manufacture, installation,~~  
9           ~~construction, repair, or replacement of a device, such as a wind~~  
10           ~~charger, windmill, or wind turbine, which is used to convert wind~~  
11           ~~energy to electrical energy or for the transmission of electricity~~  
12           ~~to the purchaser; and~~

13           ~~(d) Qualified owner means:~~

14           ~~(i) A Nebraska resident;~~

15           ~~(ii) A limited liability company that is organized under~~  
16           ~~the Limited Liability Company Act or the Nebraska Uniform Limited~~  
17           ~~Liability Company Act and that is entirely made up of members who~~  
18           ~~are Nebraska residents;~~

19           ~~(iii) A Nebraska nonprofit corporation organized under~~  
20           ~~the Nebraska Nonprofit Corporation Act;~~

21           ~~(iv) An electric supplier as defined in section~~  
22           ~~70-1001.01, except that ownership in a single C-BED project is~~  
23           ~~limited to no more than:~~

24           ~~(A) Fifteen percent either directly or indirectly by a~~  
25           ~~single electric supplier; and~~

26           ~~(B) A combined total of twenty-five percent ownership~~  
27           ~~either directly or indirectly by multiple electric suppliers; or~~

1           ~~(v) A tribal council.~~

2           ~~(4) Gross power purchase agreement payments are the~~  
3 ~~total amount of payments during the life of the agreement. For~~  
4 ~~power purchase agreements entered into on or before December 31,~~  
5 ~~2011, if the qualified owners have a combined total of at least~~  
6 ~~thirty-three percent of the equity ownership in the C-BED project,~~  
7 ~~gross power purchase agreement payments shall be reduced by the~~  
8 ~~debt financing payments. For the purpose of determining eligibility~~  
9 ~~of the project, an estimate of the payments and their recipients~~  
10 ~~shall be used.~~

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

15           ~~(6) (4)~~ The Department of Revenue may examine the actual  
16 payments and the distribution of the payments to determine if the  
17 projected distributions were met. If the payment distributions to  
18 ~~qualified owners~~ do not meet the requirements of this section,  
19 the department may recover the amount of the sales or use tax any  
20 refund that was ~~not~~ paid by the project at any time up until the  
21 end of three years after the end of the power purchase agreement.

22           ~~(7) (5)~~ At any time prior to the end of the power  
23 purchase agreements, the project may voluntarily surrender the  
24 ~~exemption~~ any refunds granted by the Tax Commissioner and pay the  
25 amount of sales and use tax that would otherwise have been due.

26           ~~(8) (6)~~ The amount of the tax due under either subsection  
27 (4) or (5) ~~(6) or (7)~~ of this section shall be increased by

1 interest at the rate specified in section 45-104.02, as such rate  
2 may from time to time be adjusted, from the date the ~~tax would~~  
3 ~~have been due if no exemption was granted~~ refund was paid to the  
4 taxpayer until the date paid. such refund was repaid to the state.

5 Sec. 5. Section 77-27,142, Revised Statutes Cumulative  
6 Supplement, 2012, is amended to read:

7 77-27,142 (1) Any incorporated municipality other than  
8 a city of the metropolitan class by ordinance of its governing  
9 body is hereby authorized to impose a sales and use tax of  
10 one-half percent, one percent, one and one-half percent, one and  
11 three-quarters percent, or two percent upon the same transactions  
12 that are sourced under the provisions of sections 77-2703.01 to  
13 77-2703.04 within such incorporated municipality on which the State  
14 of Nebraska is authorized to impose a tax pursuant to the Nebraska  
15 Revenue Act of 1967, as amended from time to time. Any city of  
16 the metropolitan class by ordinance of its governing body is hereby  
17 authorized to impose a sales and use tax of one-half percent, one  
18 percent, or one and one-half percent upon the same transactions  
19 that are sourced under the provisions of sections 77-2703.01 to  
20 77-2703.04 within such city of the metropolitan class on which  
21 the State of Nebraska is authorized to impose a tax pursuant to  
22 the Nebraska Revenue Act of 1967, as amended from time to time.  
23 No sales and use tax shall be imposed pursuant to this section  
24 until an election has been held and a majority of the qualified  
25 electors have approved such tax pursuant to sections 77-27,142.01  
26 and 77-27,142.02.

27 (2) (a) Any incorporated municipality that proposes to

1 impose a municipal sales and use tax at a rate greater than one  
2 and one-half percent or increase a municipal sales and use tax  
3 to a rate greater than one and one-half percent shall submit the  
4 question of such tax or increase at a primary or general election  
5 held within the incorporated municipality. The question shall be  
6 submitted upon an affirmative vote by at least seventy percent  
7 of all of the members of the governing body of the incorporated  
8 municipality.

9 (b) Any rate greater than one and one-half percent shall  
10 be used as follows:

11 ~~(i) In a city of the metropolitan class, the proceeds~~  
12 ~~from the first one-quarter percent of the rate greater than one and~~  
13 ~~one-half percent shall be used to reduce other taxes, the proceeds~~  
14 ~~from the next one-eighth percent of the rate greater than one and~~  
15 ~~one-half percent shall be used for public infrastructure projects,~~  
16 ~~and the proceeds from the next one-eighth percent of the rate~~  
17 ~~greater than one and one-half percent shall be used for purposes of~~  
18 ~~the interlocal agreement or joint public agency agreement described~~  
19 ~~in subsection (3) of this section;~~

20 ~~(ii)~~ (i) In a city of the primary class, up to fifteen  
21 percent of the proceeds from the rate in excess of one and one-half  
22 percent may be used for non-public infrastructure projects of  
23 an interlocal agreement or joint public agency agreement with  
24 another political subdivision within the municipality or the  
25 county in which the municipality is located, and the remaining  
26 proceeds shall be used for public infrastructure projects or  
27 voter-approved infrastructure related to an economic development

1 program as defined in section 18-2705; and

2 ~~(iii)~~ (ii) In any incorporated municipality other than a  
3 city of the ~~metropolitan~~ ~~or~~ primary class, the proceeds from the  
4 rate in excess of one and one-half percent shall be used for public  
5 infrastructure projects or voter-approved infrastructure related to  
6 an economic development program as defined in section 18-2705.

7 For purposes of this section, public infrastructure  
8 project means and includes, but is not limited to, any of the  
9 following projects, or any combination thereof: Public highways and  
10 bridges and municipal roads, streets, bridges, and sidewalks; solid  
11 waste management facilities; wastewater, storm water, and water  
12 treatment works and systems, water distribution facilities, and  
13 water resources projects, including, but not limited to, pumping  
14 stations, transmission lines, and mains and their appurtenances;  
15 hazardous waste disposal systems; resource recovery systems;  
16 airports; port facilities; buildings and capital equipment used  
17 in the operation of municipal government; convention and tourism  
18 facilities; redevelopment projects as defined in section 18-2103;  
19 mass transit and other transportation systems, including parking  
20 facilities; and equipment necessary for the provision of municipal  
21 services.

22 (c) Any rate greater than one and one-half percent shall  
23 terminate no more than ten years after its effective date or, if  
24 bonds are issued and the local option sales and use tax revenue is  
25 pledged for payment of such bonds, upon payment of such bonds and  
26 any refunding bonds, whichever date is later, except as provided in  
27 subdivision (2)(d) of this section.

1           (d) If a portion of the rate greater than one and  
2 one-half percent is stated in the ballot question as being imposed  
3 for the purpose of the interlocal agreement or joint public  
4 agency agreement described in subdivision ~~(2)(b)(ii)~~ (2)(b)(i) or  
5 subsection (3) of this section, and such portion is at least  
6 one-eighth percent, there shall be no termination date for the rate  
7 representing such portion rounded to the next higher one-quarter or  
8 one-half percent.

9           (e) Sections 13-518 to 13-522 apply to the revenue from  
10 any such tax or increase.

11           (3)(a) No municipal sales and use tax shall be imposed  
12 at a rate greater than one and one-half percent or increased to a  
13 rate greater than one and one-half percent unless the municipality  
14 is a party to an interlocal agreement pursuant to the Interlocal  
15 Cooperation Act or a joint public agency agreement pursuant to the  
16 Joint Public Agency Act with a political subdivision within the  
17 municipality or the county in which the municipality is located  
18 creating a separate legal or administrative entity relating to a  
19 public infrastructure project.

20           (b) Except as provided in subdivision ~~(2)(b)(ii)~~  
21 (2)(b)(i) of this section, such interlocal agreement or joint  
22 public agency agreement shall contain provisions, including  
23 benchmarks, relating to the long-term development of unified  
24 governance of public infrastructure projects with respect to  
25 the parties. The Legislature may provide additional requirements  
26 for such agreements, including benchmarks, but such additional  
27 requirements shall not apply to any debt outstanding at the time

1 the Legislature enacts such additional requirements. The separate  
2 legal or administrative entity created shall not be one that was  
3 in existence for one calendar year preceding the submission of the  
4 question of such tax or increase at a primary or general election  
5 held within the incorporated municipality.

6 (c) Any other public agency as defined in section 13-803  
7 may be a party to such interlocal cooperation agreement or joint  
8 public agency agreement.

9 (d) A municipality is not required to use all of the  
10 additional revenue generated by a sales and use tax imposed at a  
11 rate greater than one and one-half percent or increased to a rate  
12 greater than one and one-half percent under this subsection for the  
13 purposes of the interlocal cooperation agreement or joint public  
14 agency agreement set forth in this subsection.

15 (4) The provisions of subsections (2) and (3) of this  
16 section do not apply to the first one and one-half percent of a  
17 sales and use tax imposed by a municipality.

18 (5) Notwithstanding any provision of any municipal  
19 charter, any incorporated municipality or interlocal agency or  
20 joint public agency pursuant to an agreement as provided in  
21 subsection (3) of this section may issue bonds in one or more  
22 series for any municipal purpose and pay the principal of  
23 and interest on any such bonds by pledging receipts from the  
24 increase in the municipal sales and use taxes authorized by such  
25 municipality. Any municipality which has or may issue bonds under  
26 this section may dedicate a portion of its property tax levy  
27 authority as provided in section 77-3442 to meet debt service

1 obligations under the bonds. For purposes of this subsection, bond  
2 means any evidence of indebtedness, including, but not limited to,  
3 bonds, notes including notes issued pending long-term financing  
4 arrangements, warrants, debentures, obligations under a loan  
5 agreement or a lease-purchase agreement, or any similar instrument  
6 or obligation.

7           Sec. 6. Section 77-27,142.01, Revised Statutes Cumulative  
8 Supplement, 2012, is amended to read:

9           77-27,142.01 (1) The governing body of any incorporated  
10 municipality may submit the question of changing any terms  
11 and conditions of a sales and use tax previously authorized  
12 under section 77-27,142. Except as otherwise provided by section  
13 77-27,142, the question of modification shall be submitted to the  
14 voters at any primary or general election or at a special election  
15 if the governing body submits a certified copy of the resolution  
16 proposing modification to the election commissioner or county clerk  
17 within the time prior to the primary, general, or special election  
18 prescribed in section 77-27,142.02.

19           (2) If the change imposes a sales and use tax at a  
20 rate greater than one and one-half percent or increases the sales  
21 and use tax to a rate greater than one and one-half percent, the  
22 question shall include, but not be limited to:

23           (a) The percentage increase of one-quarter percent or  
24 one-half percent in the sales and use tax rate;

25           (b) A list of reductions or elimination of other taxes or  
26 fees, if any;

27           (c) A description of the projects to be funded, in whole



1 or in part, from the revenue collected, along with any savings or  
2 efficiencies resulting from the projects;

3 (d) The year or years within which the revenue will be  
4 collected and, if bonds will be issued with some or all of the  
5 revenue pledged for payment of such bonds, a statement that the  
6 revenue will be collected until the payment in full of such bonds  
7 and any refunding bonds; and

8 (e) (i) The percentage of revenue collected to be used  
9 for the purposes of the interlocal agreement or joint public  
10 agency agreement as provided in subdivision ~~(2)(b)(ii)~~ (2)(b)(i)  
11 or subsection (3) of section 77-27,142; (ii) a statement of the  
12 overall purpose of the agreement which is the long-term development  
13 of unified governance of public infrastructure projects, if  
14 applicable; and (iii) the name of any other political subdivision  
15 which is a party to the agreement.

16 This subsection does not apply to the first one and  
17 one-half percent of a sales and use tax imposed by a municipality.

18 Sec. 7. Section 77-27,235, Revised Statutes Cumulative  
19 Supplement, 2012, is amended to read:

20 77-27,235 (1) Any producer of electricity generated by a  
21 new renewable electric generation facility shall earn a renewable  
22 energy tax credit. For electricity generated on or after July  
23 14, 2006, and before October 1, 2007, the credit shall be .075  
24 cent for each kilowatt-hour of electricity generated by a new  
25 renewable electric generation facility. For electricity generated  
26 on or after October 1, 2007, and before January 1, 2010, the credit  
27 shall be .1 cent for each kilowatt-hour of electricity generated

1 by a new renewable electric generation facility. For electricity  
2 generated on or after January 1, 2010, and before January 1, 2013,  
3 the credit shall be .075 cent per kilowatt-hour for electricity  
4 generated by a new renewable electric generation facility. For  
5 electricity generated on or after January 1, 2013, the credit shall  
6 be .05 cent per kilowatt-hour for electricity generated by a new  
7 renewable electric generation facility. The credit may be earned  
8 for production of electricity for ten years after the date that the  
9 facility is placed in operation on or after July 14, 2006.

10 (2) For purposes of this section:

11 (a) Electricity generated by a new renewable electric  
12 generation facility means electricity that is exclusively produced  
13 by a new renewable electric generation facility;

14 (b) Eligible renewable resources means wind, moving  
15 water, solar, geothermal, fuel cell, methane gas, or photovoltaic  
16 technology; and

17 (c) New renewable electric generation facility means an  
18 electrical generating facility located in this state that is first  
19 placed into service on or after July 14, 2006, which utilizes  
20 eligible renewable resources as its fuel source.

21 (3) The credit allowed under this section may be used  
22 to reduce the producer's Nebraska income tax liability or to  
23 obtain a refund of state sales and use taxes paid by the producer  
24 of electricity generated by a new renewable electric generation  
25 facility. A claim to use the credit for refund of the state  
26 sales and use taxes paid, either directly or indirectly, by the  
27 producer may be filed quarterly for electricity generated during

1 the previous quarter by the twentieth day of the month following  
2 the end of the calendar quarter. The credit may be used to obtain  
3 a refund of state sales and use taxes paid during the quarter  
4 immediately preceding the quarter in which the claim for refund is  
5 made, except that the amount refunded under this subsection shall  
6 not exceed the amount of the state sales and use taxes paid during  
7 the quarter.

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

11 (5) The total amount of renewable energy tax credits that  
12 may be used by all taxpayers shall be limited to fifty thousand  
13 dollars without further authorization from the Legislature.

14 (6) The credit allowed under this section may not be  
15 claimed by a producer who received a sales tax ~~exemption~~ refund  
16 under section 77-2704.57 for the new renewable electric generation  
17 facility.

18 Sec. 8. Original sections 70-1904 and 70-1909, Reissue  
19 Revised Statutes of Nebraska, and sections 70-1903, 77-2704.57,  
20 77-27,142, 77-27,142.01, and 77-27,235, Revised Statutes Cumulative  
21 Supplement, 2012, are repealed.

22 2. On page 1, strike lines 2 through 10 and insert  
23 "70-1904 and 70-1909, Reissue Revised Statutes of Nebraska,  
24 and sections 70-1903, 77-2704.57, 77-27,142, 77-27,142.01, and  
25 77-27,235, Revised Statutes Cumulative Supplement, 2012; to  
26 define and redefine terms; to change provisions relating to  
27 community-based energy development projects; to change a sales tax

1 exemption; to change provisions relating to sales and use taxes  
2 under the Local Option Revenue Act; to harmonize provisions; and  
3 to repeal the original sections."