

AMENDMENTS TO LB736

Introduced by Friesen, 34.

1 1. Insert the following new section:

2 Sec. 6. Section 77-2704.57, Revised Statutes Cumulative Supplement,
3 2014, is amended to read:

4 77-2704.57 (1) Sales and use tax shall not be imposed on the gross
5 receipts from the sale, lease, or rental of personal property for use in
6 a C-BED project or community-based energy development project. This
7 exemption shall be conditioned upon filing requirements for the exemption
8 as imposed by the Tax Commissioner. The requirements imposed by the Tax
9 Commissioner shall be related to ensuring that the property purchased
10 qualifies for the exemption. The Tax Commissioner may require the filing
11 of the documents showing compliance with section 70-1907, the
12 organization of the project, the distribution of the payments, the power
13 purchase agreements, the project pro forma, articles of incorporation,
14 operating agreements, and any amendments or changes to these documents
15 during the life of the power purchase agreement.

16 (2) The Tax Commissioner shall notify an electric supplier ~~utility~~
17 that has a power purchase agreement with a C-BED project if there is a
18 change in project ownership which makes the project no longer eligible as
19 a C-BED project. Purchase of a C-BED project by an electric supplier
20 ~~utility~~ prior to the end of the power purchase agreement disqualifies the
21 C-BED project for the exemption, but the Department of Revenue may not
22 recover the amount of the sales and use tax that was not paid by the
23 project prior to the purchase.

24 (3) For purposes of this section, the terms (a) C-BED project or
25 community-based energy development project, (b) electric supplier, (c)
26 gross power purchase agreement payments, (d ~~e~~) payments to the local
27 community, and (e ~~d~~) qualified owner have the definitions found in

1 section 70-1903.

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

9 (5) At any time prior to the end of the power purchase agreements,
10 the project may voluntarily surrender the exemption granted by the Tax
11 Commissioner and pay the amount of sales and use tax that would otherwise
12 have been due.

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

18 2. On page 5, line 22, strike "section 70-1904" and insert "sections
19 70-1904 and 77-2704.57".

20 3. Renumber the remaining section accordingly.