

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 1128**

Final Reading

Introduced by Schumacher, 22; Mello, 5; Lautenbaugh, 18; Nordquist,  
7.

Read first time January 19, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-2734.03 and 77-3806, Reissue Revised Statutes of  
3 Nebraska, section 77-908, Revised Statutes Cumulative  
4 Supplement, 2010, and sections 49-801.01, 77-2715.07, and  
5 77-2717, Revised Statutes Supplement, 2011; to adopt the  
6 New Markets Job Growth Investment Act; to provide tax  
7 credits; to harmonize provisions; to provide an operative  
8 date; and to repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 19 of this act shall be known  
2 and may be cited as the New Markets Job Growth Investment Act.

3           Sec. 2. For purposes of the New Markets Job Growth  
4 Investment Act, the definitions in sections 3 to 12 of this act  
5 apply.

6           Sec. 3. Applicable percentage means zero percent for the  
7 first two credit allowance dates, seven percent for the third credit  
8 allowance date, and eight percent for the next four credit allowance  
9 dates.

10          Sec. 4. Credit allowance date means, with respect to any  
11 qualified equity investment:

12           (1) The date on which such investment is initially made;  
13 and

14           (2) Each of the six anniversary dates of such date  
15 thereafter.

16          Sec. 5. Letter ruling means a written interpretation of  
17 law to a specific set of facts provided by the applicant requesting a  
18 letter ruling.

19          Sec. 6. Long-term debt security means any debt instrument  
20 issued by a qualified community development entity, at par value or a  
21 premium, with an original maturity date of at least seven years after  
22 the date of its issuance, with no acceleration of repayment,  
23 amortization, or prepayment features prior to its original maturity  
24 date. The qualified community development entity that issues the debt  
25 instrument may not make cash interest payments on the debt instrument

1 during the period beginning on the date of issuance and ending on the  
2 final credit allowance date that exceed the cumulative operating  
3 income as defined by regulations adopted under section 45D of the  
4 Internal Revenue Code of 1986, as amended, of the qualified community  
5 development entity for that period prior to giving effect to the  
6 expense of such cash interest payments. This in no way limits the  
7 holder's ability to accelerate payments on the debt instrument if the  
8 issuer has defaulted on covenants designed to ensure compliance with  
9 this section or section 45D of the code.

10           Sec. 7. Purchase price means the amount paid to the  
11 issuer of a qualified equity investment for the qualified equity  
12 investment.

13           Sec. 8. Qualified active low-income community business  
14 has the meaning given such term in section 45D of the Internal  
15 Revenue Code of 1986, as amended, and 26 C.F.R. 1.45D-1. A business  
16 shall be considered a qualified active low-income community business  
17 for the duration of the qualified community development entity's  
18 investment in, or loan to, the business if the entity reasonably  
19 expects, at the time it makes the investment or loan, that the  
20 business will continue to satisfy the requirements for being a  
21 qualified active low-income community business throughout the entire  
22 period of the investment or loan. The term excludes any business that  
23 derives or projects to derive fifteen percent or more of its annual  
24 revenue from the rental or sale of real estate. This exclusion does  
25 not apply to a business that is controlled by, or under common

1 control with, another business if the second business (1) does not  
2 derive or project to derive fifteen percent or more of its annual  
3 revenue from the rental or sale of real estate and (2) is the primary  
4 tenant of the real estate leased from the first business.

5           Sec. 9. Qualified community development entity has the  
6 meaning given such term in section 45D of the Internal Revenue Code  
7 of 1986, as amended, if such entity has entered into an allocation  
8 agreement with the Community Development Financial Institutions Fund  
9 of the United States Department of the Treasury with respect to  
10 credits authorized by section 45D of the code which includes the  
11 State of Nebraska within the service area set forth in such  
12 allocation agreement. The term includes affiliated entities and  
13 subordinate community development entities of any such qualified  
14 community development entity.

15           Sec. 10. (1) Qualified equity investment means any equity  
16 investment in, or long-term debt security issued by, a qualified  
17 community development entity that:

18           (a) Is acquired after the operative date of this act at  
19 its original issuance solely in exchange for cash;

20           (b) Has at least eighty-five percent of its cash purchase  
21 price used by the issuer to make qualified low-income community  
22 investments in qualified active low-income community businesses  
23 located in this state by the first anniversary of the initial credit  
24 allowance date;

25           (c) Is designated by the issuer as a qualified equity

1 investment; and

2 (d) Is certified by the Tax Commissioner as not exceeding  
3 the limitation contained in section 15 of this act.

4 (2) The term includes any qualified equity investment  
5 that does not meet the requirements of subdivision (1)(a) of this  
6 section if such investment was a qualified equity investment in the  
7 hands of a prior holder.

8 Sec. 11. Qualified low-income community investment means  
9 any capital or equity investment in, or loan to, any qualified active  
10 low-income community business. With respect to any one qualified  
11 active low-income community business, the maximum amount of qualified  
12 low-income community investments made in such business, on a  
13 collective basis with all of its affiliates, shall be ten million  
14 dollars whether issued to one or several qualified community  
15 development entities.

16 Sec. 12. Tax credit means a credit against the tax  
17 otherwise due under the Nebraska Revenue Act of 1967 or sections  
18 44-101 to 44-165, 77-907 to 77-918, or 77-3801 to 77-3807.

19 Sec. 13. A person or entity that acquires a qualified  
20 equity investment earns a vested tax credit against the tax imposed  
21 by the Nebraska Revenue Act of 1967 or sections 44-101 to 44-165,  
22 77-907 to 77-918, or 77-3801 to 77-3807 that may be utilized as  
23 follows:

24 (1) On each credit allowance date of such qualified  
25 equity investment such acquirer, or subsequent holder of the

1 qualified equity investment, shall be entitled to utilize a portion  
2 of such tax credit during the taxable year that includes such credit  
3 allowance date;

4 (2) The tax credit amount shall be equal to the  
5 applicable percentage for such credit allowance date multiplied by  
6 the purchase price paid to the issuer of such qualified equity  
7 investment; and

8 (3) The amount of the tax credit claimed shall not exceed  
9 the amount of the taxpayer's tax liability for the tax year for which  
10 the tax credit is claimed.

11 Any taxpayer that claims a tax credit shall not be  
12 required to pay any additional retaliatory tax under section 44-150  
13 as a result of claiming such tax credit.

14 Sec. 14. No tax credit claimed under the New Markets Job  
15 Growth Investment Act shall be refundable or transferable. Tax  
16 credits earned by a partnership, limited liability company,  
17 subchapter S corporation, or other pass-through entity may be  
18 allocated to the partners, members, or shareholders of such entity  
19 for their direct use in accordance with any agreement among such  
20 partners, members, or shareholders. Any amount of tax credit that the  
21 taxpayer is prohibited from claiming in a taxable year may be carried  
22 forward to any of the taxpayer's five subsequent taxable years.

23 Sec. 15. The Tax Commissioner shall limit the monetary  
24 amount of qualified equity investments permitted under the New  
25 Markets Job Growth Investment Act to a level necessary to limit tax

1 credit utilization in any fiscal year at no more than fifteen million  
2 dollars of new tax credits. Such limitation on qualified equity  
3 investments shall be based on the anticipated utilization of credits  
4 without regard to the potential for taxpayers to carry forward tax  
5 credits to later tax years.

6 Sec. 16. (1) A qualified community development entity  
7 that seeks to have an equity investment or long-term debt security  
8 designated as a qualified equity investment and eligible for tax  
9 credits under the New Markets Job Growth Investment Act shall apply  
10 to the Tax Commissioner. The qualified community development entity  
11 shall submit an application on a form that the Tax Commissioner  
12 provides that includes:

13 (a) Evidence of the entity's certification as a qualified  
14 community development entity, including evidence of the service area  
15 of the entity that includes this state;

16 (b) A copy of the allocation agreement executed by the  
17 entity, or its controlling entity, and the Community Development  
18 Financial Institutions Fund referred to in section 9 of this act;

19 (c) A certificate executed by an executive officer of the  
20 entity attesting that the allocation agreement remains in effect and  
21 has not been revoked or cancelled by the Community Development  
22 Financial Institutions Fund referred to in section 9 of this act;

23 (d) A description of the proposed amount, structure, and  
24 purchaser of the equity investment or long-term debt security;

25 (e) Identifying information for any taxpayer eligible to

1 utilize tax credits earned as a result of the issuance of the  
2 qualified equity investment;

3 (f) Information regarding the proposed use of proceeds  
4 from the issuance of the qualified equity investment; and

5 (g) A nonrefundable application fee of five thousand  
6 dollars.

7 (2) Within thirty days after receipt of a completed  
8 application containing the information necessary for the Tax  
9 Commissioner to certify a potential qualified equity investment,  
10 including the payment of the application fee, the Tax Commissioner  
11 shall grant or deny the application in full or in part. If the Tax  
12 Commissioner denies any part of the application, the Tax Commissioner  
13 shall inform the qualified community development entity of the  
14 grounds for the denial. If the qualified community development entity  
15 provides any additional information required by the Tax Commissioner  
16 or otherwise completes its application within fifteen days after the  
17 notice of denial, the application shall be considered completed as of  
18 the original date of submission. If the qualified community  
19 development entity fails to provide the information or complete its  
20 application within the fifteen-day period, the application remains  
21 denied and must be resubmitted in full with a new submission date.

22 (3) If the application is deemed complete, the Tax  
23 Commissioner shall certify the proposed equity investment or long-  
24 term debt security as a qualified equity investment that is eligible  
25 for tax credits, subject to the limitations contained in section 15

1 of this act. The Tax Commissioner shall provide written notice of the  
2 certification to the qualified community development entity. The  
3 notice shall include the names of those taxpayers who are eligible to  
4 utilize the credits and their respective credit amounts. If the names  
5 of the taxpayers who are eligible to utilize the credits change due  
6 to a transfer of a qualified equity investment or a change in an  
7 allocation pursuant to section 14 of this act, the qualified  
8 community development entity shall notify the Tax Commissioner of  
9 such change.

10 (4) The Tax Commissioner shall certify qualified equity  
11 investments in the order applications are received. Applications  
12 received on the same day shall be deemed to have been received  
13 simultaneously. For applications received on the same day and deemed  
14 complete, the Tax Commissioner shall certify, consistent with  
15 remaining tax credit capacity, qualified equity investments in  
16 proportionate percentages based upon the ratio of the amount of  
17 qualified equity investment requested in an application to the total  
18 amount of qualified equity investments requested in all applications  
19 received on the same day.

20 (5) Once the Tax Commissioner has certified qualified  
21 equity investments that, on a cumulative basis, are eligible for the  
22 maximum limitation contained in section 15 of this act, the Tax  
23 Commissioner may not certify any more qualified equity investments  
24 for that fiscal year. If a pending request cannot be fully certified,  
25 the Tax Commissioner shall certify the portion that may be certified

1 unless the qualified community development entity elects to withdraw  
2 its request rather than receive partial credit.

3 (6) Within thirty days after receiving notice of  
4 certification, the qualified community development entity shall issue  
5 the qualified equity investment and receive cash in the amount of the  
6 certified amount. The qualified community development entity shall  
7 provide the Tax Commissioner with evidence of the receipt of the cash  
8 investment within ten business days after receipt. If the qualified  
9 community development entity does not receive the cash investment and  
10 issue the qualified equity investment within thirty days after  
11 receipt of the certification notice, the certification shall lapse  
12 and the entity may not issue the qualified equity investment without  
13 reapplying to the Tax Commissioner for certification. A certification  
14 that lapses reverts back to the Tax Commissioner and may be reissued  
15 only in accordance with the application process outlined in this  
16 section.

17 Sec. 17. The Tax Commissioner shall recapture, from the  
18 taxpayer that claimed the credit on a return, the tax credit allowed  
19 under the New Markets Job Growth Investment Act if:

20 (1) Any amount of the federal tax credit available with  
21 respect to a qualified equity investment that is eligible for a tax  
22 credit under this section is recaptured under section 45D of the  
23 Internal Revenue Code of 1986, as amended. In such case the state's  
24 recapture shall be proportionate to the federal recapture with  
25 respect to such qualified equity investment;

1           (2) The issuer redeems or makes principal repayment with  
2 respect to a qualified equity investment prior to the seventh credit  
3 allowance date. In such case recapture shall be proportionate to the  
4 amount of the redemption or repayment with respect to such qualified  
5 equity investment; or

6           (3) The issuer fails to invest and satisfy the  
7 requirements of subdivision (1)(b) of section 10 of this act and  
8 maintain such level of investment in qualified low-income community  
9 investments in Nebraska until the last credit allowance date for the  
10 qualified equity investment. For purposes of this section, an  
11 investment shall be considered held by an issuer even if the  
12 investment has been sold or repaid if the issuer reinvests an amount  
13 equal to the capital returned to or recovered by the issuer from the  
14 original investment, exclusive of any profits realized, in another  
15 qualified low-income community investment within twelve months of the  
16 receipt of such capital. An issuer shall not be required to reinvest  
17 capital returned from qualified low-income community investments  
18 after the sixth credit allowance date, the proceeds of which were  
19 used to make the qualified low-income community investment, and the  
20 qualified low-income community investment shall be considered held by  
21 the issuer through the seventh credit allowance date.

22           Sec. 18. The enforcement of section 17 of this act shall  
23 be subject to a six-month cure period. No recapture under section 17  
24 of this act shall occur until the qualified community development  
25 entity has been given notice of noncompliance and afforded six months

1 from the date of such notice to cure the noncompliance.

2           Sec. 19. (1) The Tax Commissioner shall issue letter  
3 rulings regarding the tax credit program authorized under the New  
4 Markets Job Growth Investment Act subject to the terms and conditions  
5 set forth in rules and regulations.

6           (2) The Tax Commissioner shall respond to a request for a  
7 letter ruling within sixty days after receipt of such request. The  
8 applicant may provide a draft letter ruling for the Tax  
9 Commissioner's consideration. The applicant may withdraw the request  
10 for a letter ruling, in writing, prior to the issuance of the letter  
11 ruling. The Tax Commissioner may refuse to issue a letter ruling for  
12 good cause, but shall list the specific reasons for refusing to issue  
13 the letter ruling. Good cause includes, but is not limited to:

14           (a) The applicant requests the Tax Commissioner to  
15 determine whether a statute is constitutional or a rule or regulation  
16 is lawful;

17           (b) The request involves a hypothetical situation or  
18 alternative plans;

19           (c) The facts or issues presented in the request are  
20 unclear, overbroad, insufficient, or otherwise inappropriate as a  
21 basis upon which to issue a letter ruling; or

22           (d) The issue is currently being considered in a  
23 rulemaking procedure, contested case, or other agency or judicial  
24 proceeding that may definitely resolve the issue.

25           (3) A letter ruling shall bind the Tax Commissioner until

1 such time as the taxpayer or its shareholders, members, or partners,  
2 as applicable, claim all of such tax credits on a tax return which is  
3 the topic of the letter ruling, subject to the terms and conditions  
4 set forth in rules and regulations. The letter ruling shall apply  
5 only to the applicant.

6 (4) In rendering letter rulings and making other  
7 determinations under this section, to the extent applicable, the Tax  
8 Commissioner shall look for guidance to section 45D of the Internal  
9 Revenue Code of 1986, as amended, and the regulations issued  
10 thereunder. The Tax Commissioner may adopt and promulgate rules and  
11 regulations to carry out this section.

12 Sec. 20. Section 49-801.01, Revised Statutes Supplement,  
13 2011, is amended to read:

14 49-801.01 Except as provided by Article VIII, section 1B,  
15 of the Constitution of Nebraska and in sections 77-2701.01, 77-2714  
16 to 77-27,123, 77-27,191, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,  
17 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,  
18 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 6, 8, 9,  
19 17, and 19 of this act, any reference to the Internal Revenue Code  
20 refers to the Internal Revenue Code of 1986 as it exists on February  
21 23, 2011.

22 Sec. 21. Section 77-908, Revised Statutes Cumulative  
23 Supplement, 2010, is amended to read:

24 77-908 Every insurance company organized under the stock,  
25 mutual, assessment, or reciprocal plan, except fraternal benefit

1 societies, which is transacting business in this state shall, on or  
2 before March 1 of each year, pay a tax to the director of one percent  
3 of the gross amount of direct writing premiums received by it during  
4 the preceding calendar year for business done in this state, except  
5 that (1) for group sickness and accident insurance the rate of such  
6 tax shall be five-tenths of one percent and (2) for property and  
7 casualty insurance, excluding individual sickness and accident  
8 insurance, the rate of such tax shall be one percent. A captive  
9 insurer authorized under the Captive Insurers Act that is transacting  
10 business in this state shall, on or before March 1 of each year, pay  
11 to the director a tax of one-fourth of one percent of the gross  
12 amount of direct writing premiums received by such insurer during the  
13 preceding calendar year for business transacted in the state. The  
14 taxable premiums shall include premiums paid on the lives of persons  
15 residing in this state and premiums paid for risks located in this  
16 state whether the insurance was written in this state or not,  
17 including that portion of a group premium paid which represents the  
18 premium for insurance on Nebraska residents or risks located in  
19 Nebraska included within the group when the number of lives in the  
20 group exceeds five hundred. The tax shall also apply to premiums  
21 received by domestic companies for insurance written on individuals  
22 residing outside this state or risks located outside this state if no  
23 comparable tax is paid by the direct writing domestic company to any  
24 other appropriate taxing authority. Companies whose scheme of  
25 operation contemplates the return of a portion of premiums to

1 policyholders, without such policyholders being claimants under the  
2 terms of their policies, may deduct such return premiums or dividends  
3 from their gross premiums for the purpose of tax calculations. Any  
4 such insurance company shall receive a credit on the tax imposed as  
5 provided in the Community Development Assistance Act and in the New  
6 Markets Job Growth Investment Act.

7 Sec. 22. Section 77-2715.07, Revised Statutes Supplement,  
8 2011, is amended to read:

9 77-2715.07 (1) There shall be allowed to qualified  
10 resident individuals as a nonrefundable credit against the income tax  
11 imposed by the Nebraska Revenue Act of 1967:

12 (a) A credit equal to the federal credit allowed under  
13 section 22 of the Internal Revenue Code; and

14 (b) A credit for taxes paid to another state as provided  
15 in section 77-2730.

16 (2) There shall be allowed to qualified resident  
17 individuals against the income tax imposed by the Nebraska Revenue  
18 Act of 1967:

19 (a) For returns filed reporting federal adjusted gross  
20 incomes of greater than twenty-nine thousand dollars, a nonrefundable  
21 credit equal to twenty-five percent of the federal credit allowed  
22 under section 21 of the Internal Revenue Code of 1986, as amended;

23 (b) For returns filed reporting federal adjusted gross  
24 income of twenty-nine thousand dollars or less, a refundable credit  
25 equal to a percentage of the federal credit allowable under section

1 21 of the Internal Revenue Code of 1986, as amended, whether or not  
2 the federal credit was limited by the federal tax liability. The  
3 percentage of the federal credit shall be one hundred percent for  
4 incomes not greater than twenty-two thousand dollars, and the  
5 percentage shall be reduced by ten percent for each one thousand  
6 dollars, or fraction thereof, by which the reported federal adjusted  
7 gross income exceeds twenty-two thousand dollars;

8 (c) A refundable credit as provided in section 77-5209.01  
9 for individuals who qualify for an income tax credit as a qualified  
10 beginning farmer or livestock producer under the Beginning Farmer Tax  
11 Credit Act for all taxable years beginning or deemed to begin on or  
12 after January 1, 2006, under the Internal Revenue Code of 1986, as  
13 amended;

14 (d) A refundable credit for individuals who qualify for  
15 an income tax credit under the Angel Investment Tax Credit Act, the  
16 Nebraska Advantage Microenterprise Tax Credit Act, or the Nebraska  
17 Advantage Research and Development Act; and

18 (e) A refundable credit equal to ten percent of the  
19 federal credit allowed under section 32 of the Internal Revenue Code  
20 of 1986, as amended.

21 (3) There shall be allowed to all individuals as a  
22 nonrefundable credit against the income tax imposed by the Nebraska  
23 Revenue Act of 1967:

24 (a) A credit for personal exemptions allowed under  
25 section 77-2716.01;

1           (b) A credit for contributions to certified community  
2 betterment programs as provided in the Community Development  
3 Assistance Act. Each partner, each shareholder of an electing  
4 subchapter S corporation, each beneficiary of an estate or trust, or  
5 each member of a limited liability company shall report his or her  
6 share of the credit in the same manner and proportion as he or she  
7 reports the partnership, subchapter S corporation, estate, trust, or  
8 limited liability company income; ~~and~~

9           (c) A credit for investment in a biodiesel facility as  
10 provided in section 77-27,236; ~~and -~~

11           (d) A credit as provided in the New Markets Job Growth  
12 Investment Act.

13           (4) There shall be allowed as a credit against the income  
14 tax imposed by the Nebraska Revenue Act of 1967:

15           (a) A credit to all resident estates and trusts for taxes  
16 paid to another state as provided in section 77-2730;

17           (b) A credit to all estates and trusts for contributions  
18 to certified community betterment programs as provided in the  
19 Community Development Assistance Act; and

20           (c) A refundable credit for individuals who qualify for  
21 an income tax credit as an owner of agricultural assets under the  
22 Beginning Farmer Tax Credit Act for all taxable years beginning or  
23 deemed to begin on or after January 1, 2009, under the Internal  
24 Revenue Code of 1986, as amended. The credit allowed for each  
25 partner, shareholder, member, or beneficiary of a partnership,

1 corporation, limited liability company, or estate or trust qualifying  
2 for an income tax credit as an owner of agricultural assets under the  
3 Beginning Farmer Tax Credit Act shall be equal to the partner's,  
4 shareholder's, member's, or beneficiary's portion of the amount of  
5 tax credit distributed pursuant to subsection (4) of section 77-5211.

6 (5)(a) For all taxable years beginning on or after  
7 January 1, 2007, and before January 1, 2009, under the Internal  
8 Revenue Code of 1986, as amended, there shall be allowed to each  
9 partner, shareholder, member, or beneficiary of a partnership,  
10 subchapter S corporation, limited liability company, or estate or  
11 trust a nonrefundable credit against the income tax imposed by the  
12 Nebraska Revenue Act of 1967 equal to fifty percent of the partner's,  
13 shareholder's, member's, or beneficiary's portion of the amount of  
14 franchise tax paid to the state under sections 77-3801 to 77-3807 by  
15 a financial institution.

16 (b) For all taxable years beginning on or after January  
17 1, 2009, under the Internal Revenue Code of 1986, as amended, there  
18 shall be allowed to each partner, shareholder, member, or beneficiary  
19 of a partnership, subchapter S corporation, limited liability  
20 company, or estate or trust a nonrefundable credit against the income  
21 tax imposed by the Nebraska Revenue Act of 1967 equal to the  
22 partner's, shareholder's, member's, or beneficiary's portion of the  
23 amount of franchise tax paid to the state under sections 77-3801 to  
24 77-3807 by a financial institution.

25 (c) Each partner, shareholder, member, or beneficiary

1 shall report his or her share of the credit in the same manner and  
2 proportion as he or she reports the partnership, subchapter S  
3 corporation, limited liability company, or estate or trust income. If  
4 any partner, shareholder, member, or beneficiary cannot fully utilize  
5 the credit for that year, the credit may not be carried forward or  
6 back.

7           Sec. 23. Section 77-2717, Revised Statutes Supplement,  
8 2011, is amended to read:

9           77-2717 (1)(a) The tax imposed on all resident estates  
10 and trusts shall be a percentage of the federal taxable income of  
11 such estates and trusts as modified in section 77-2716, plus a  
12 percentage of the federal alternative minimum tax and the federal tax  
13 on premature or lump-sum distributions from qualified retirement  
14 plans. The additional taxes shall be recomputed by (i) substituting  
15 Nebraska taxable income for federal taxable income, (ii) calculating  
16 what the federal alternative minimum tax would be on Nebraska taxable  
17 income and adjusting such calculations for any items which are  
18 reflected differently in the determination of federal taxable income,  
19 and (iii) applying Nebraska rates to the result. The federal credit  
20 for prior year minimum tax, after the recomputations required by the  
21 Nebraska Revenue Act of 1967, and the credits provided in the  
22 Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska  
23 Advantage Research and Development Act shall be allowed as a  
24 reduction in the income tax due. A refundable income tax credit shall  
25 be allowed for all resident estates and trusts under the Angel

1 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax  
2 Credit Act, and the Nebraska Advantage Research and Development Act.  
3 A nonrefundable income tax credit shall be allowed for all resident  
4 estates and trusts as provided in the New Markets Job Growth  
5 Investment Act.

6 (b) The tax imposed on all nonresident estates and trusts  
7 shall be the portion of the tax imposed on resident estates and  
8 trusts which is attributable to the income derived from sources  
9 within this state. The tax which is attributable to income derived  
10 from sources within this state shall be determined by multiplying the  
11 liability to this state for a resident estate or trust with the same  
12 total income by a fraction, the numerator of which is the nonresident  
13 estate's or trust's Nebraska income as determined by sections 77-2724  
14 and 77-2725 and the denominator of which is its total federal income  
15 after first adjusting each by the amounts provided in section  
16 77-2716. The federal credit for prior year minimum tax, after the  
17 recomputations required by the Nebraska Revenue Act of 1967, reduced  
18 by the percentage of the total income which is attributable to income  
19 from sources outside this state, and the credits provided in the  
20 Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska  
21 Advantage Research and Development Act shall be allowed as a  
22 reduction in the income tax due. A refundable income tax credit shall  
23 be allowed for all nonresident estates and trusts under the Angel  
24 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax  
25 Credit Act, and the Nebraska Advantage Research and Development Act.

1 A nonrefundable income tax credit shall be allowed for all  
2 nonresident estates and trusts as provided in the New Markets Job  
3 Growth Investment Act.

4           (2) In all instances wherein a fiduciary income tax  
5 return is required under the provisions of the Internal Revenue Code,  
6 a Nebraska fiduciary return shall be filed, except that a fiduciary  
7 return shall not be required to be filed regarding a simple trust if  
8 all of the trust's beneficiaries are residents of the State of  
9 Nebraska, all of the trust's income is derived from sources in this  
10 state, and the trust has no federal tax liability. The fiduciary  
11 shall be responsible for making the return for the estate or trust  
12 for which he or she acts, whether the income be taxable to the estate  
13 or trust or to the beneficiaries thereof. The fiduciary shall include  
14 in the return a statement of each beneficiary's distributive share of  
15 net income when such income is taxable to such beneficiaries.

16           (3) The beneficiaries of such estate or trust who are  
17 residents of this state shall include in their income their  
18 proportionate share of such estate's or trust's federal income and  
19 shall reduce their Nebraska tax liability by their proportionate  
20 share of the credits as provided in the Angel Investment Tax Credit  
21 Act, the Nebraska Advantage Microenterprise Tax Credit Act, ~~and~~ the  
22 Nebraska Advantage Research and Development Act, and the New Markets  
23 Job Growth Investment Act. There shall be allowed to a beneficiary a  
24 refundable income tax credit under the Beginning Farmer Tax Credit  
25 Act for all taxable years beginning or deemed to begin on or after

1 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

2 (4) If any beneficiary of such estate or trust is a  
3 nonresident during any part of the estate's or trust's taxable year,  
4 he or she shall file a Nebraska income tax return which shall include  
5 (a) in Nebraska adjusted gross income that portion of the estate's or  
6 trust's Nebraska income, as determined under sections 77-2724 and  
7 77-2725, allocable to his or her interest in the estate or trust and  
8 (b) a reduction of the Nebraska tax liability by his or her  
9 proportionate share of the credits as provided in the Angel  
10 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax  
11 Credit Act, ~~and the Nebraska Advantage Research and Development Act,~~  
12 and the New Markets Job Growth Investment Act and shall execute and  
13 forward to the fiduciary, on or before the original due date of the  
14 Nebraska fiduciary return, an agreement which states that he or she  
15 will file a Nebraska income tax return and pay income tax on all  
16 income derived from or connected with sources in this state, and such  
17 agreement shall be attached to the Nebraska fiduciary return for such  
18 taxable year.

19 (5) In the absence of the nonresident beneficiary's  
20 executed agreement being attached to the Nebraska fiduciary return,  
21 the estate or trust shall remit a portion of such beneficiary's  
22 income which was derived from or attributable to Nebraska sources  
23 with its Nebraska return for the taxable year. The amount of  
24 remittance, in such instance, shall be the highest individual income  
25 tax rate determined under section 77-2715.02 multiplied by the

1 nonresident beneficiary's share of the estate or trust income which  
2 was derived from or attributable to sources within this state. The  
3 amount remitted shall be allowed as a credit against the Nebraska  
4 income tax liability of the beneficiary.

5 (6) The Tax Commissioner may allow a nonresident  
6 beneficiary to not file a Nebraska income tax return if the  
7 nonresident beneficiary's only source of Nebraska income was his or  
8 her share of the estate's or trust's income which was derived from or  
9 attributable to sources within this state, the nonresident did not  
10 file an agreement to file a Nebraska income tax return, and the  
11 estate or trust has remitted the amount required by subsection (5) of  
12 this section on behalf of such nonresident beneficiary. The amount  
13 remitted shall be retained in satisfaction of the Nebraska income tax  
14 liability of the nonresident beneficiary.

15 (7) For purposes of this section, unless the context  
16 otherwise requires, simple trust shall mean any trust instrument  
17 which (a) requires that all income shall be distributed currently to  
18 the beneficiaries, (b) does not allow amounts to be paid, permanently  
19 set aside, or used in the tax year for charitable purposes, and (c)  
20 does not distribute amounts allocated in the corpus of the trust. Any  
21 trust which does not qualify as a simple trust shall be deemed a  
22 complex trust.

23 (8) For purposes of this section, any beneficiary of an  
24 estate or trust that is a grantor trust of a nonresident shall be  
25 disregarded and this section shall apply as though the nonresident

1 grantor was the beneficiary.

2           Sec. 24. Section 77-2734.03, Reissue Revised Statutes of  
3 Nebraska, is amended to read:

4           77-2734.03 (1)(a) For taxable years commencing prior to  
5 January 1, 1997, any (i) insurer paying a tax on premiums and  
6 assessments pursuant to section 77-908 or 81-523, (ii) electric  
7 cooperative organized under the Joint Public Power Authority Act, or  
8 (iii) credit union shall be credited, in the computation of the tax  
9 due under the Nebraska Revenue Act of 1967, with the amount paid  
10 during the taxable year as taxes on such premiums and assessments and  
11 taxes in lieu of intangible tax.

12           (b) For taxable years commencing on or after January 1,  
13 1997, any insurer paying a tax on premiums and assessments pursuant  
14 to section 77-908 or 81-523, any electric cooperative organized under  
15 the Joint Public Power Authority Act, or any credit union shall be  
16 credited, in the computation of the tax due under the Nebraska  
17 Revenue Act of 1967, with the amount paid during the taxable year as  
18 (i) taxes on such premiums and assessments included as Nebraska  
19 premiums and assessments under section 77-2734.05 and (ii) taxes in  
20 lieu of intangible tax.

21           (c) For taxable years commencing or deemed to commence  
22 prior to, on, or after January 1, 1998, any insurer paying a tax on  
23 premiums and assessments pursuant to section 77-908 or 81-523 shall  
24 be credited, in the computation of the tax due under the Nebraska  
25 Revenue Act of 1967, with the amount paid during the taxable year as

1 assessments allowed as an offset against premium and related  
2 retaliatory tax liability pursuant to section 44-4233.

3 (2) There shall be allowed to corporate taxpayers a tax  
4 credit for contributions to community betterment programs as provided  
5 in the Community Development Assistance Act.

6 (3) There shall be allowed to corporate taxpayers a  
7 refundable income tax credit under the Beginning Farmer Tax Credit  
8 Act for all taxable years beginning or deemed to begin on or after  
9 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

10 (4) The changes made to this section by Laws 2004, LB  
11 983, apply to motor fuels purchased during any tax year ending or  
12 deemed to end on or after January 1, 2005, under the Internal Revenue  
13 Code of 1986, as amended.

14 (5) There shall be allowed to corporate taxpayers  
15 refundable income tax credits under the Nebraska Advantage  
16 Microenterprise Tax Credit Act and the Nebraska Advantage Research  
17 and Development Act.

18 (6) There shall be allowed to corporate taxpayers a  
19 nonrefundable income tax credit for investment in a biodiesel  
20 facility as provided in section 77-27,236.

21 (7) There shall be allowed to corporate taxpayers a  
22 nonrefundable income tax credit as provided in the New Markets Job  
23 Growth Investment Act.

24 Sec. 25. Section 77-3806, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1                   77-3806 (1) The tax return shall be filed and the total  
2 amount of the franchise tax shall be due on the fifteenth day of the  
3 third month after the end of the taxable year. No extension of time  
4 to pay the tax shall be granted. If the Tax Commissioner determines  
5 that the amount of tax can be computed from available information  
6 filed by the financial institutions with either state or federal  
7 regulatory agencies, the Tax Commissioner may, by regulation, waive  
8 the requirement for the financial institutions to file returns.

9                   (2) Sections 77-2714 to 77-27,135 relating to  
10 deficiencies, penalties, interest, the collection of delinquent  
11 amounts, and appeal procedures for the tax imposed by section  
12 77-2734.02 shall also apply to the tax imposed by section 77-3802. If  
13 the filing of a return is waived by the Tax Commissioner, the payment  
14 of the tax shall be considered the filing of a return for purposes of  
15 sections 77-2714 to 77-27,135.

16                   (3) No refund of the tax imposed by section 77-3802 shall  
17 be allowed unless a claim for such refund is filed within ninety days  
18 of the date on which (a) the tax is due or was paid, whichever is  
19 later, or (b) a change is made to the amount of deposits or the net  
20 financial income of the financial institution by a state or federal  
21 regulatory agency.

22                   (4) Any such financial institution shall receive a credit  
23 on the franchise tax as provided under the Community Development  
24 Assistance Act and under the New Markets Job Growth Investment Act.

25                   Sec. 26. This act is operative for all taxable years

1 beginning or deemed to begin on or after January 1, 2012, under the  
2 Internal Revenue Code of 1986, as amended.

3           Sec. 27. Original sections 77-2734.03 and 77-3806,  
4 Reissue Revised Statutes of Nebraska, section 77-908, Revised  
5 Statutes Cumulative Supplement, 2010, and sections 49-801.01,  
6 77-2715.07, and 77-2717, Revised Statutes Supplement, 2011, are  
7 repealed.