

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1048

Introduced by Harr, 8.

Read first time January 20, 2016

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 77-908, 77-2717, and 77-2734.03, Revised Statutes Cumulative
3 Supplement, 2014, and section 77-2715.07, Revised Statutes
4 Supplement, 2015; to adopt the Nebraska Agriculture and
5 Manufacturing Jobs Act; to provide tax credits as prescribed; to
6 harmonize provisions; and to repeal the original sections.

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

1 Section 1. Sections 1 to 17 of this act shall be known and may be
2 cited as the Nebraska Agriculture and Manufacturing Jobs Act.

3 Sec. 2. For purposes of the Nebraska Agriculture and Manufacturing
4 Jobs Act, the definitions found in sections 3 to 12 of this act shall be
5 used.

6 Sec. 3. Affiliate means a person that directly, or indirectly
7 through one or more intermediaries, controls, is controlled by, or is
8 under common control with another person. For purposes of this section, a
9 person is controlled by another person if the controlling person holds,
10 directly or indirectly, the majority voting or ownership interest in the
11 controlled person or has control over the day-to-day operations of the
12 controlled person by contract or by law.

13 Sec. 4. Closing date means the date on which a small business
14 growth fund has collected all of the amounts specified in subdivisions
15 (7)(a) and (b) of section 13 of this act.

16 Sec. 5. Credit-eligible capital contribution means an investment of
17 cash by a person in a small business growth fund that equals the amount
18 specified on a tax credit certificate issued by the department under
19 subdivision (6)(b) of section 13 of this act. The investment shall
20 purchase an equity interest in the small business growth fund or
21 purchase, at par value or premium, a debt instrument issued by the small
22 business growth fund that meets all of the following criteria:

23 (1) The debt instrument has an original maturity date of at least
24 five years after the date of issuance;

25 (2) The debt instrument has a repayment schedule that is not faster
26 than a level principal amortization over five years; and

27 (3) The debt instrument has no interest, distribution, or payment
28 features dependent on the small business growth fund's profitability or
29 the success of the small business growth investments.

30 Sec. 6. Department means the Department of Revenue.

31 Sec. 7. (1) Eligible distribution means any of the following:

1 (a) A distribution of cash to one or more equity owners of the small
2 business growth fund to fully or partially offset a projected increase in
3 the owner's federal or state tax liability, including any penalties and
4 interest, related to the owner's ownership, management, or operation of
5 the small business growth fund;

6 (b) A distribution of cash as payment of interest and principal on a
7 debt of the small business growth fund except to the extent the payment
8 results in the small business growth fund having less than one hundred
9 percent of its eligible investment authority invested in small business
10 growth investments in this state or held in cash and other marketable
11 securities; or

12 (c) A distribution of cash related to the reasonable costs and
13 expenses of forming, syndicating, managing, and operating the small
14 business growth fund. Such distributions may include reasonable and
15 necessary fees paid for professional services, including legal and
16 accounting services, related to the formation and operation of the small
17 business growth fund and an annual management fee to the extent it does
18 not exceed two percent of the small business growth fund's eligible
19 investment authority.

20 (2) Eligible distribution does not include a distribution described
21 in subdivision (1)(c) of this section to a person that made a credit-
22 eligible capital contribution to the small business growth fund.

23 Sec. 8. Eligible investment authority means the amount stated on
24 the notice issued under subdivision (6)(a) of section 13 of this act
25 certifying the small business growth fund. Seventy percent of a small
26 business growth fund's eligible investment authority shall be comprised
27 of credit-eligible capital contributions.

28 Sec. 9. Rural area means either of the following:

29 (1) Any area located within a political subdivision having a
30 population less than or equal to fifty thousand inhabitants and outside
31 the standard metropolitan statistical area of any adjacent community

1 having a population greater than fifty thousand inhabitants; or

2 (2) Any area determined to be "rural in character" by the Under
3 Secretary for Rural Development within the United States Department of
4 Agriculture.

5 Sec. 10. (1) Small business concern means an operating company
6 that, at the time of the initial investment in the operating company by a
7 small business growth fund, has its principal business operations in this
8 state, has fewer than two hundred fifty employees or not more than
9 fifteen million dollars in net income for the preceding taxable year, and
10 meets any of the following criteria:

11 (a) The operating company's principal business operations are
12 located in a rural area;

13 (b) The operating company produces or provides any goods or services
14 normally used by farmers, ranchers, or producers and harvesters of
15 aquatic products in their business operations or to improve the welfare
16 or livelihood of such persons or is involved in the processing and
17 marketing of agricultural products, farm supplies, or input suppliers; or

18 (c) The operating company is primarily engaged in manufacturing.

19 (2) For purposes of this section, an operating company's principal
20 business operations are in this state if at least eighty percent of the
21 operating company's employees reside in this state, the individuals who
22 receive eighty percent of the operating company's payroll reside in this
23 state, or the operating company has agreed to use the proceeds of a small
24 business growth investment to relocate at least eighty percent of its
25 employees to this state or pay at least eighty percent of its payroll to
26 individuals residing in this state.

27 (3) For purposes of this section, net income means federal adjusted
28 gross income as required to be reported under the Internal Revenue Code
29 less federal and state taxes imposed on or measured by income.

30 Sec. 11. Small business growth fund means an entity certified by
31 the department under subdivision (6)(a) of section 13 of this act.

1 Sec. 12. Small business growth investment means any capital or
2 equity investment in a small business concern or any loan to a small
3 business concern with a term of at least one year.

4 Sec. 13. (1) Beginning October 1, 2016, a person that has developed
5 a business plan to invest in small business concerns in this state and
6 has successfully solicited private investors to make capital
7 contributions in support of the plan may apply to the department for
8 certification as a small business growth fund. The application shall
9 include all of the following:

10 (a) The total eligible investment authority sought by the applicant
11 under the business plan;

12 (b) Documents and other evidence sufficient to prove, to the
13 satisfaction of the department, that the applicant meets all of the
14 following criteria:

15 (i) The applicant or an affiliate of the applicant is a rural
16 business investment company as defined in 7 U.S.C. 2009cc or is licensed
17 as a small business investment company under 15 U.S.C. 681; and

18 (ii) As of the date the application is submitted, the applicant has
19 invested more than one hundred million dollars in operating companies,
20 including at least fifty million dollars in operating companies located
21 in rural areas. In computing investments under this subdivision, the
22 applicant may include investments made by affiliates of the applicant;

23 (c) The industries in which the applicant proposes to make small
24 business growth investments and the percentage of the small business
25 growth investments that will be made in each industry. The applicant
26 shall identify each industry by using the codes utilized by the North
27 American Industry Classification System;

28 (d) An estimate of the number of jobs that will be created or
29 retained in this state as a result of the applicant's small business
30 growth investments;

31 (e) A revenue impact assessment for the applicant's proposed small

1 business growth investments prepared by a nationally recognized third-
2 party independent economic forecasting firm using the IMPLAN forecasting
3 model or some other dynamic economic forecasting model. The revenue
4 impact assessment shall analyze the applicant's business plan over the
5 ten years following the date the application is submitted to the
6 department;

7 (f) A signed affidavit from each investor successfully solicited by
8 the applicant to make a credit-eligible capital contribution in support
9 of the business plan. Each affidavit shall include information sufficient
10 for the department to identify the investor and shall state the amount of
11 the investor's credit-eligible capital contribution; and

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

13 (2) The department shall review and make a determination with
14 respect to each application submitted under this section within thirty
15 days after receipt. The department shall review and make determinations
16 on the applications in the order in which the applications are received
17 by the department. Applications received by the department on the same
18 day shall be deemed to have been received simultaneously. The department
19 shall approve not more than one hundred million dollars in eligible
20 investment authority and not more than seventy million dollars in credit-
21 eligible capital contributions under this section.

22 (3) The department shall deny an application submitted under this
23 section if any of the following are true:

24 (a) The application is incomplete;

25 (b) The application fee is not paid in full;

26 (c) The applicant does not satisfy all the criteria described in
27 subdivision (1)(b) of this section;

28 (d) The revenue impact assessment submitted under subdivision (1)(e)
29 of this section does not demonstrate that the applicant's business plan
30 will result in a positive economic impact on this state over a ten-year
31 period that exceeds the cumulative amount of tax credits that would be

1 earned under section 14 of this act if the application were approved;

2 (e) The credit-eligible capital contributions described in
3 affidavits submitted under subdivision (1)(f) of this section do not
4 equal seventy percent of the total amount of eligible investment
5 authority sought under the applicant's business plan; or

6 (f) The department has already approved the maximum amount of
7 eligible investment authority and credit-eligible capital contributions
8 allowed under subsection (2) of this section.

9 (4) If the department denies an application under subsection (3) of
10 this section, the department shall send notice of its determination to
11 the applicant. The notice shall include the reasons that the application
12 was denied. If the application was denied for any reason other than the
13 reason specified in subdivision (3)(f) of this section, the applicant may
14 provide additional information to the department to complete, clarify, or
15 cure defects in the application. The additional information must be
16 submitted within fifteen days after the date the notice of denial was
17 sent by the department. If the person or entity submits additional
18 information within fifteen days, the department shall reconsider the
19 application within thirty days after receiving the additional
20 information. The reconsidered application shall be reviewed and
21 considered before any pending application submitted after the original
22 submission date of the reconsidered application. If the person or entity
23 does not submit additional information within fifteen days after the
24 notice of denial was sent by the department, the applicant may submit a
25 new application with a new submission date at any time.

26 (5) If approving multiple simultaneously submitted applications
27 would result in exceeding the overall eligible investment authority limit
28 prescribed by subsection (2) of this section, the department shall
29 proportionally reduce the eligible investment authority and the credit-
30 eligible capital contributions for each approved application as necessary
31 to avoid exceeding the limit.

1 (6) The department shall not deny a small business growth fund
2 application or reduce the requested eligible investment authority for
3 reasons other than those described in subsections (3) and (5) of this
4 section. If the department approves such an application, the department
5 shall issue all of the following notices:

6 (a) To the applicant, a written notice certifying that the applicant
7 qualifies as a small business growth fund and specifying the amount of
8 the applicant's eligible investment authority; and

9 (b) To each investor whose affidavit was included in the
10 application, a tax credit certificate specifying the amount of the
11 investor's credit-eligible capital contribution.

12 (7) A small business growth fund shall do all of the following
13 within sixty days after receiving the certification issued under
14 subdivision (6)(a) of this section:

15 (a) Collect the credit-eligible capital contributions from each
16 investor issued a tax credit certificate under subdivision (6)(b) of this
17 section; and

18 (b) Collect one or more investments of cash that, when added to the
19 contributions collected under subdivision (7)(a) of this section, equal
20 the fund's eligible investment authority. At least ten percent of the
21 fund's eligible investment authority shall be comprised of equity
22 investments contributed by affiliates of the small business growth fund,
23 including employees, officers, and directors of such affiliates.

24 (8) Within sixty-five days after receiving the certification issued
25 under subdivision (6)(a) of this section, the small business growth fund
26 shall send to the department documentation sufficient to prove that the
27 amounts described in subdivisions (7)(a) and (b) of this section have
28 been collected. If the small business growth fund fails to fully comply
29 with subdivisions (7)(a) and (b) of this section, the fund's
30 certification shall lapse. Eligible investment authority and
31 corresponding credit-eligible capital contributions that lapse under this

1 subsection do not count toward limits on total eligible investment
2 authority and credit-eligible capital contributions prescribed by
3 subsection (2) of this section. Once eligible investment authority has
4 lapsed, the department shall first award lapsed authority pro rata to
5 each small business growth fund that was awarded less than the requested
6 eligible investment authority under subsection (5) of this section. Any
7 remaining eligible investment authority may be awarded by the department
8 to new applicants.

9 (9) Application fees submitted to the department pursuant to
10 subdivision (1)(g) of this section shall be credited to the Nebraska
11 Agriculture and Manufacturing Jobs Fund, which is hereby created, and
12 used by the department to administer the Nebraska Agriculture and
13 Manufacturing Jobs Act. Any money in the fund available for investment
14 shall be invested by the state investment officer pursuant to the
15 Nebraska Capital Expansion Act and the Nebraska State Funds Investment
16 Act.

17 Sec. 14. (1) There is hereby allowed a nonrefundable tax credit for
18 taxpayers that made a credit-eligible capital contribution to a small
19 business growth fund and were issued a tax credit certificate under
20 subdivision (6)(b) of section 13 of this act. The credit may be claimed
21 against any income taxes due under the Nebraska Revenue Act of 1967 or
22 any premium or related retaliatory taxes due under section 44-150 or
23 77-908. The credit may not be sold, transferred, or allocated to any
24 entity other than an affiliate of the taxpayer.

25 (2) On the closing date, the taxpayer shall earn a vested credit
26 equal to the amount of the taxpayer's credit-eligible capital
27 contribution to the small business growth fund, as specified on the tax
28 credit certificate received under subdivision (6)(b) of section 13 of
29 this act.

30 (3)(a) The credits authorized under this section may be claimed as
31 follows:

1 (i) Credits equaling twenty percent of the small business growth
2 fund's eligible investment authority may be claimed for each of the
3 taxable years that include the third, fourth, and fifth anniversary dates
4 of the closing date; and

5 (ii) Credits equaling ten percent of the small business growth
6 fund's eligible investment authority may be claimed for the taxable year
7 that includes the sixth anniversary date of the closing date.

8 (b) Amounts carried forward pursuant to subsection (4) of this
9 section shall not be counted for purposes of subdivision (3)(a) of this
10 section.

11 (4) If the amount of the credit for a taxable year exceeds the tax
12 otherwise due for that year, the excess may be carried forward to ensuing
13 taxable years until fully used.

14 (5) A taxpayer claiming a credit under this section shall submit a
15 copy of the tax credit certificate with the taxpayer's return for each
16 taxable year for which the credit is claimed.

17 Sec. 15. (1) The department shall revoke a tax credit certificate
18 issued under section 13 of this act if any of the following occur with
19 respect to a small business growth fund before the fund is decertified
20 under subsection (5) of this section:

21 (a) The small business growth fund in which the credit-eligible
22 capital contribution was made does not invest one hundred percent of its
23 eligible investment authority in small growth investments in this state
24 within three years after the closing date;

25 (b) The small business growth fund, after investing one hundred
26 percent of its eligible investment authority in small growth investments
27 in this state, fails to maintain that investment until the fifth
28 anniversary of the closing date. For purposes of this subdivision, an
29 investment is maintained even if the investment is sold or repaid so long
30 as the small business growth fund reinvests an amount equal to the
31 capital returned to or recovered by the small business growth fund from

1 the original investment, exclusive of any profits realized, in other
2 small business growth investments in this state within twelve months
3 after the receipt of such capital. Amounts received periodically by a
4 small business growth fund shall be treated as continually invested in
5 small business growth investments if the amounts are reinvested in one or
6 more small business growth investments by the end of the following
7 calendar year. A small business growth fund is not required to reinvest
8 capital returned from small business growth investments after the fourth
9 anniversary of the closing date, and such small business growth
10 investments shall be considered held continuously by the small business
11 growth fund through the fifth anniversary of the closing date;

12 (c) The small business growth fund makes a distribution or payment
13 other than an eligible distribution before the fourth anniversary of the
14 closing date;

15 (d) The small business growth fund invests more than twenty percent
16 of its eligible investment authority in the same small business concern,
17 including amounts invested in affiliates of the small business concern,
18 but excluding amounts reinvested in the small business concern from
19 capital returned to or recovered by the small business growth fund from
20 its original investment as described in subdivision (1)(b) of this
21 section; or

22 (e) The small business growth fund makes a small business growth
23 investment in a small business concern that directly, or indirectly
24 through an affiliate, owns, has the right to acquire an ownership
25 interest in, makes a loan to, or makes an investment in the small
26 business growth fund, an affiliate of the small business growth fund, or
27 an investor in the small business growth fund. This subdivision does not
28 apply to investments in publicly traded securities by a small business
29 concern or an owner or affiliate of such small business concern.

30 (2) Before revoking one or more tax credit certificates under this
31 section, the department shall notify the small business growth fund of

1 the reasons for the pending revocation. If the small business growth fund
2 corrects the violations outlined in the notice to the satisfaction of the
3 department within one hundred eighty days after the date the notice was
4 sent, the department shall not revoke the tax credit certificates.

5 (3) If the department revokes a tax credit certificate under this
6 section, the department shall make an assessment under section 44-150 or
7 77-908 or under the Nebraska Revenue Act of 1967, as applicable, for the
8 amount of the credit claimed by the certificate holder before the
9 certificate was revoked. The time limitations on assessments of taxes
10 under section 44-150 or 77-908 or under the Nebraska Revenue Act of 1967,
11 as applicable, do not apply to an assessment under this subsection, but
12 the department shall make the assessment within one year after the date
13 the certificate is revoked.

14 (4) If tax credit certificates are revoked under this section, the
15 associated eligible investment authority and credit-eligible capital
16 contributions do not count toward the limit on total eligible investment
17 authority and credit-eligible capital contributions described by
18 subsection (2) of section 13 of this act. The department shall first
19 award revoked authority pro rata to each small business growth fund that
20 was awarded less than the requested eligible investment authority under
21 subsection (5) of section 13 of this act. Any remaining eligible
22 investment authority may be awarded by the department to new applicants.

23 (5)(a) On or after the fifth anniversary of the closing date, a
24 small business growth fund that has not committed any of the acts
25 described in subsection (1) of this section may apply to the department
26 to decertify as a small business growth fund. The department shall
27 respond to the application within thirty days after receiving the
28 application. In evaluating the application, the fact that no tax credit
29 certificates have been revoked with respect to the small business growth
30 fund shall be sufficient evidence to prove that the fund is eligible for
31 decertification. The department shall not unreasonably deny an

1 application for decertification.

2 (b) The department shall send notice of its determination with
3 respect to an application for decertification to the small business
4 growth fund. If the application is denied, the notice shall include the
5 reasons for the denial.

6 (c) The department shall not revoke a tax credit certificate due to
7 any actions of a small business growth fund that occur after the date the
8 small business growth fund's application for decertification is approved.

9 Sec. 16. (1) Each small business growth fund shall submit a report
10 to the department on or before the fifth business day after the second
11 anniversary of the closing date. The report shall provide documentation
12 as to the investment of the fund's eligible investment authority in small
13 business growth investments. Such documentation shall include the
14 following:

15 (a) A bank statement of the small business growth fund displaying
16 each small business growth investment; and

17 (b) The name and location of each operating company in which the
18 small business growth fund has made a small business growth investment,
19 including evidence that the operating company qualified as a small
20 business concern at the time the investment was made.

21 (2) On or before the last day of February of each year following the
22 year in which the report required under subsection (1) of this section is
23 due, the small business growth fund shall submit an annual report to the
24 department including the following:

25 (a) The number of employment positions created or retained as a
26 result of the small business growth fund's small business growth
27 investments as of the last day of the preceding calendar year;

28 (b) The average annual salary of the positions described in
29 subdivision (2)(a) of this section; and

30 (c) Any other information required by the department.

31 Sec. 17. The department may adopt and promulgate rules and

1 regulations necessary to carry out the Nebraska Agriculture and
2 Manufacturing Jobs Act.

3 Sec. 18. Section 77-908, Revised Statutes Cumulative Supplement,
4 2014, is amended to read:

5 77-908 Every insurance company organized under the stock, mutual,
6 assessment, or reciprocal plan, except fraternal benefit societies, which
7 is transacting business in this state shall, on or before March 1 of each
8 year, pay a tax to the director of one percent of the gross amount of
9 direct writing premiums received by it during the preceding calendar year
10 for business done in this state, except that (1) for group sickness and
11 accident insurance the rate of such tax shall be five-tenths of one
12 percent and (2) for property and casualty insurance, excluding individual
13 sickness and accident insurance, the rate of such tax shall be one
14 percent. A captive insurer authorized under the Captive Insurers Act that
15 is transacting business in this state shall, on or before March 1 of each
16 year, pay to the director a tax of one-fourth of one percent of the gross
17 amount of direct writing premiums received by such insurer during the
18 preceding calendar year for business transacted in the state. The taxable
19 premiums shall include premiums paid on the lives of persons residing in
20 this state and premiums paid for risks located in this state whether the
21 insurance was written in this state or not, including that portion of a
22 group premium paid which represents the premium for insurance on Nebraska
23 residents or risks located in Nebraska included within the group when the
24 number of lives in the group exceeds five hundred. The tax shall also
25 apply to premiums received by domestic companies for insurance written on
26 individuals residing outside this state or risks located outside this
27 state if no comparable tax is paid by the direct writing domestic company
28 to any other appropriate taxing authority. Companies whose scheme of
29 operation contemplates the return of a portion of premiums to
30 policyholders, without such policyholders being claimants under the terms
31 of their policies, may deduct such return premiums or dividends from

1 their gross premiums for the purpose of tax calculations. Any such
2 insurance company shall receive a credit on the tax imposed as provided
3 in the Community Development Assistance Act, the Nebraska Job Creation
4 and Mainstreet Revitalization Act, the Nebraska Agriculture and
5 Manufacturing Jobs Act, and the New Markets Job Growth Investment Act.

6 Sec. 19. Section 77-2715.07, Revised Statutes Supplement, 2015, is
7 amended to read:

8 77-2715.07 (1) There shall be allowed to qualified resident
9 individuals as a nonrefundable credit against the income tax imposed by
10 the Nebraska Revenue Act of 1967:

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

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

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

17 (a) For returns filed reporting federal adjusted gross incomes of
18 greater than twenty-nine thousand dollars, a nonrefundable credit equal
19 to twenty-five percent of the federal credit allowed under section 21 of
20 the Internal Revenue Code of 1986, as amended, except that for taxable
21 years beginning or deemed to begin on or after January 1, 2015, such
22 nonrefundable credit shall be allowed only if the individual would have
23 received the federal credit allowed under section 21 of the code after
24 adding back in any carryforward of a net operating loss that was deducted
25 pursuant to such section in determining eligibility for the federal
26 credit;

27 (b) For returns filed reporting federal adjusted gross income of
28 twenty-nine thousand dollars or less, a refundable credit equal to a
29 percentage of the federal credit allowable under section 21 of the
30 Internal Revenue Code of 1986, as amended, whether or not the federal
31 credit was limited by the federal tax liability. The percentage of the

1 federal credit shall be one hundred percent for incomes not greater than
2 twenty-two thousand dollars, and the percentage shall be reduced by ten
3 percent for each one thousand dollars, or fraction thereof, by which the
4 reported federal adjusted gross income exceeds twenty-two thousand
5 dollars, except that for taxable years beginning or deemed to begin on or
6 after January 1, 2015, such refundable credit shall be allowed only if
7 the individual would have received the federal credit allowed under
8 section 21 of the code after adding back in any carryforward of a net
9 operating loss that was deducted pursuant to such section in determining
10 eligibility for the federal credit;

11 (c) A refundable credit as provided in section 77-5209.01 for
12 individuals who qualify for an income tax credit as a qualified beginning
13 farmer or livestock producer under the Beginning Farmer Tax Credit Act
14 for all taxable years beginning or deemed to begin on or after January 1,
15 2006, under the Internal Revenue Code of 1986, as amended;

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

20 (e) A refundable credit equal to ten percent of the federal credit
21 allowed under section 32 of the Internal Revenue Code of 1986, as
22 amended, except that for taxable years beginning or deemed to begin on or
23 after January 1, 2015, such refundable credit shall be allowed only if
24 the individual would have received the federal credit allowed under
25 section 32 of the code after adding back in any carryforward of a net
26 operating loss that was deducted pursuant to such section in determining
27 eligibility for the federal credit.

28 (3) There shall be allowed to all individuals as a nonrefundable
29 credit against the income tax imposed by the Nebraska Revenue Act of
30 1967:

31 (a) A credit for personal exemptions allowed under section

1 77-2716.01;

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

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

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

13 (e) A credit as provided in the Nebraska Job Creation and Mainstreet
14 Revitalization Act; and -

15 (f) A credit as provided in the Nebraska Agriculture and
16 Manufacturing Jobs Act.

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

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

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

24 (c) A refundable credit for individuals who qualify for an income
25 tax credit as an owner of agricultural assets under the Beginning Farmer
26 Tax Credit Act for all taxable years beginning or deemed to begin on or
27 after January 1, 2009, under the Internal Revenue Code of 1986, as
28 amended. The credit allowed for each partner, shareholder, member, or
29 beneficiary of a partnership, corporation, limited liability company, or
30 estate or trust qualifying for an income tax credit as an owner of
31 agricultural assets under the Beginning Farmer Tax Credit Act shall be

1 equal to the partner's, shareholder's, member's, or beneficiary's portion
2 of the amount of tax credit distributed pursuant to subsection (4) of
3 section 77-5211.

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

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

21 (c) Each partner, shareholder, member, or beneficiary shall report
22 his or her share of the credit in the same manner and proportion as he or
23 she reports the partnership, subchapter S corporation, limited liability
24 company, or estate or trust income. If any partner, shareholder, member,
25 or beneficiary cannot fully utilize the credit for that year, the credit
26 may not be carried forward or back.

27 Sec. 20. Section 77-2717, Revised Statutes Cumulative Supplement,
28 2014, is amended to read:

29 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
30 before January 1, 2014, the tax imposed on all resident estates and
31 trusts shall be a percentage of the federal taxable income of such

1 estates and trusts as modified in section 77-2716, plus a percentage of
2 the federal alternative minimum tax and the federal tax on premature or
3 lump-sum distributions from qualified retirement plans. The additional
4 taxes shall be recomputed by (A) substituting Nebraska taxable income for
5 federal taxable income, (B) calculating what the federal alternative
6 minimum tax would be on Nebraska taxable income and adjusting such
7 calculations for any items which are reflected differently in the
8 determination of federal taxable income, and (C) applying Nebraska rates
9 to the result. The federal credit for prior year minimum tax, after the
10 recomputations required by the Nebraska Revenue Act of 1967, and the
11 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
12 and the Nebraska Advantage Research and Development Act shall be allowed
13 as a reduction in the income tax due. A refundable income tax credit
14 shall be allowed for all resident estates and trusts under the Angel
15 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
16 Credit Act, and the Nebraska Advantage Research and Development Act. A
17 nonrefundable income tax credit shall be allowed for all resident estates
18 and trusts as provided in the New Markets Job Growth Investment Act.

19 (ii) For taxable years beginning or deemed to begin on or after
20 January 1, 2014, the tax imposed on all resident estates and trusts shall
21 be a percentage of the federal taxable income of such estates and trusts
22 as modified in section 77-2716, plus a percentage of the federal tax on
23 premature or lump-sum distributions from qualified retirement plans. The
24 additional taxes shall be recomputed by substituting Nebraska taxable
25 income for federal taxable income and applying Nebraska rates to the
26 result. The credits provided in the Nebraska Advantage Microenterprise
27 Tax Credit Act and the Nebraska Advantage Research and Development Act
28 shall be allowed as a reduction in the income tax due. A refundable
29 income tax credit shall be allowed for all resident estates and trusts
30 under the Angel Investment Tax Credit Act, the Nebraska Advantage
31 Microenterprise Tax Credit Act, and the Nebraska Advantage Research and

1 Development Act. A nonrefundable income tax credit shall be allowed for
2 all resident estates and trusts as provided in the Nebraska Job Creation
3 and Mainstreet Revitalization Act, ~~and~~ the New Markets Job Growth
4 Investment Act, and the Nebraska Agriculture and Manufacturing Jobs Act.

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

28 (2) In all instances wherein a fiduciary income tax return is
29 required under the provisions of the Internal Revenue Code, a Nebraska
30 fiduciary return shall be filed, except that a fiduciary return shall not
31 be required to be filed regarding a simple trust if all of the trust's

1 beneficiaries are residents of the State of Nebraska, all of the trust's
2 income is derived from sources in this state, and the trust has no
3 federal tax liability. The fiduciary shall be responsible for making the
4 return for the estate or trust for which he or she acts, whether the
5 income be taxable to the estate or trust or to the beneficiaries thereof.
6 The fiduciary shall include in the return a statement of each
7 beneficiary's distributive share of net income when such income is
8 taxable to such beneficiaries.

9 (3) The beneficiaries of such estate or trust who are residents of
10 this state shall include in their income their proportionate share of
11 such estate's or trust's federal income and shall reduce their Nebraska
12 tax liability by their proportionate share of the credits as provided in
13 the Angel Investment Tax Credit Act, the Nebraska Advantage
14 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
15 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
16 Act, ~~and~~ the New Markets Job Growth Investment Act, and the Nebraska
17 Agriculture and Manufacturing Jobs Act. There shall be allowed to a
18 beneficiary a refundable income tax credit under the Beginning Farmer Tax
19 Credit Act for all taxable years beginning or deemed to begin on or after
20 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

21 (4) If any beneficiary of such estate or trust is a nonresident
22 during any part of the estate's or trust's taxable year, he or she shall
23 file a Nebraska income tax return which shall include (a) in Nebraska
24 adjusted gross income that portion of the estate's or trust's Nebraska
25 income, as determined under sections 77-2724 and 77-2725, allocable to
26 his or her interest in the estate or trust and (b) a reduction of the
27 Nebraska tax liability by his or her proportionate share of the credits
28 as provided in the Angel Investment Tax Credit Act, the Nebraska
29 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
30 and Development Act, the Nebraska Job Creation and Mainstreet
31 Revitalization Act, ~~and~~ the New Markets Job Growth Investment Act, and

1 the Nebraska Agriculture and Manufacturing Jobs Act and shall execute and
2 forward to the fiduciary, on or before the original due date of the
3 Nebraska fiduciary return, an agreement which states that he or she will
4 file a Nebraska income tax return and pay income tax on all income
5 derived from or connected with sources in this state, and such agreement
6 shall be attached to the Nebraska fiduciary return for such taxable year.

7 (5) In the absence of the nonresident beneficiary's executed
8 agreement being attached to the Nebraska fiduciary return, the estate or
9 trust shall remit a portion of such beneficiary's income which was
10 derived from or attributable to Nebraska sources with its Nebraska return
11 for the taxable year. For taxable years beginning or deemed to begin
12 before January 1, 2013, the amount of remittance, in such instance, shall
13 be the highest individual income tax rate determined under section
14 77-2715.02 multiplied by the nonresident beneficiary's share of the
15 estate or trust income which was derived from or attributable to sources
16 within this state. For taxable years beginning or deemed to begin on or
17 after January 1, 2013, the amount of remittance, in such instance, shall
18 be the highest individual income tax rate determined under section
19 77-2715.03 multiplied by the nonresident beneficiary's share of the
20 estate or trust income which was derived from or attributable to sources
21 within this state. The amount remitted shall be allowed as a credit
22 against the Nebraska income tax liability of the beneficiary.

23 (6) The Tax Commissioner may allow a nonresident beneficiary to not
24 file a Nebraska income tax return if the nonresident beneficiary's only
25 source of Nebraska income was his or her share of the estate's or trust's
26 income which was derived from or attributable to sources within this
27 state, the nonresident did not file an agreement to file a Nebraska
28 income tax return, and the estate or trust has remitted the amount
29 required by subsection (5) of this section on behalf of such nonresident
30 beneficiary. The amount remitted shall be retained in satisfaction of the
31 Nebraska income tax liability of the nonresident beneficiary.

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

8 (8) For purposes of this section, any beneficiary of an estate or
9 trust that is a grantor trust of a nonresident shall be disregarded and
10 this section shall apply as though the nonresident grantor was the
11 beneficiary.

12 Sec. 21. Section 77-2734.03, Revised Statutes Cumulative Supplement,
13 2014, is amended to read:

14 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
15 1997, any (i) insurer paying a tax on premiums and assessments pursuant
16 to section 77-908 or 81-523, (ii) electric cooperative organized under
17 the Joint Public Power Authority Act, or (iii) credit union shall be
18 credited, in the computation of the tax due under the Nebraska Revenue
19 Act of 1967, with the amount paid during the taxable year as taxes on
20 such premiums and assessments and taxes in lieu of intangible tax.

21 (b) For taxable years commencing on or after January 1, 1997, any
22 insurer paying a tax on premiums and assessments pursuant to section
23 77-908 or 81-523, any electric cooperative organized under the Joint
24 Public Power Authority Act, or any credit union shall be credited, in the
25 computation of the tax due under the Nebraska Revenue Act of 1967, with
26 the amount paid during the taxable year as (i) taxes on such premiums and
27 assessments included as Nebraska premiums and assessments under section
28 77-2734.05 and (ii) taxes in lieu of intangible tax.

29 (c) For taxable years commencing or deemed to commence prior to, on,
30 or after January 1, 1998, any insurer paying a tax on premiums and
31 assessments pursuant to section 77-908 or 81-523 shall be credited, in

1 the computation of the tax due under the Nebraska Revenue Act of 1967,
2 with the amount paid during the taxable year as assessments allowed as an
3 offset against premium and related retaliatory tax liability pursuant to
4 section 44-4233.

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

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

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

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

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

22 (7) There shall be allowed to corporate taxpayers a nonrefundable
23 income tax credit as provided in the Nebraska Job Creation and Mainstreet
24 Revitalization Act, ~~and~~ the New Markets Job Growth Investment Act, and
25 the Nebraska Agriculture and Manufacturing Jobs Act.

26 Sec. 22. Original sections 77-908, 77-2717, and 77-2734.03, Revised
27 Statutes Cumulative Supplement, 2014, and section 77-2715.07, Revised
28 Statutes Supplement, 2015, are repealed.