

AMENDMENTS TO LB 779

(Amendments to Standing Committee amendments, AM2038)

Introduced by Coash, 27.

1 1. Insert the following sections:

2 Sec. 12. Sections 12 to 17 of this act shall be known and
3 may be cited as the Agritourism Insurance Act.

4 Sec. 13. For purposes of the Agritourism Insurance Act:

5 (1) Liability insurance means liability insurance
6 providing a minimum coverage of not less than one million dollars
7 written by an insurance company authorized to do business in this
8 state or obtained through a licensed surplus lines producer;

9 (2) Agritourism activities means activities that allows
10 persons who are members of the general public to view or
11 participate in (a) rural activities that are carried out on a
12 farm or ranch, including farming, ranching, hunting, fishing, and
13 historic, cultural, or natural attractions, and (b) outfitting when
14 vessels or inner tubes are rented for use on public or private
15 streams; and

16 (3) Small agritourism business means a private individual
17 or a private entity that provides agritourism activities and
18 derives or anticipates deriving net income of not more than five
19 hundred thousand dollars annually.

20 Sec. 14. The intent of the Agritourism Insurance Act is
21 to encourage the development of small agritourism businesses and
22 to encourage small agritourism businesses to acquire and maintain

1 liability insurance by granting such businesses a tax credit as
2 provided in the act.

3 Sec. 15. The Agritourism Insurance Fund is created. The
4 fund shall consist of funds transferred from the Local Civic,
5 Cultural, and Convention Center Financing Fund as provided in
6 section 13-2704. As soon after December 31 each year as possible,
7 the Department of Economic Development shall certify the amount of
8 income tax credits granted under section 16 of this act in the
9 prior calendar year to the State Treasurer who shall transfer such
10 amount from the Agritourism Insurance Fund to the General Fund. Any
11 money in the Agritourism Insurance Fund available for investment
12 shall be invested by the state investment officer pursuant to
13 the Nebraska Capital Expansion Act and the Nebraska State Funds
14 Investment Act.

15 Sec. 16. (1) Beginning January 1, 2011, a small
16 agritourism business that acquires and maintains liability
17 insurance may apply to the Department of Economic Development for a
18 refundable income tax credit as provided in this section.

19 (2) The application shall include (a) written evidence
20 from the business that such business meets the requirements for
21 being a small agritourism business and has acquired liability
22 insurance, (b) the cost of the liability insurance to the business,
23 and (c) an affidavit stating that the small agritourism business
24 intends to maintain such insurance for at least one year after
25 the tax credit is granted. If the liability insurance is not
26 so maintained, the small agritourism business shall repay to the
27 department the amount of the credit received with interest. The

1 department shall remit such repayment to the State Treasurer for
2 credit to the Agritourism Insurance Fund.

3 (3) The department shall grant the tax credit to
4 qualified applicants as the applications are received. A small
5 agritourism business may apply for the tax credit for a maximum
6 of five years, which shall be consecutive. The refundable income
7 tax credit is an amount equal to fifty percent of the cost of the
8 liability insurance to the business, not to exceed two thousand
9 dollars annually. A small agritourism business shall reapply each
10 year a tax credit is sought under the Agritourism Insurance Act.

11 (4) The total amount of tax credits granted per year
12 under this section shall not exceed one hundred thousand dollars
13 from the Agritourism Insurance Fund. If the limitation is reached,
14 the department shall so notify applicants of any applications
15 received thereafter.

16 Sec. 17. The Department of Economic Development may adopt
17 and promulgate rules and regulations to carry out the Agritourism
18 Insurance Act.

19 Sec. 18. Section 77-2715.07, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-2715.07 (1) There shall be allowed to qualified
22 resident individuals as a nonrefundable credit against the income
23 tax imposed by the Nebraska Revenue Act of 1967:

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

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

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

4 (a) For returns filed reporting federal adjusted
5 gross incomes of greater than twenty-nine thousand dollars, a
6 nonrefundable credit equal to twenty-five percent of the federal
7 credit allowed under section 21 of the Internal Revenue Code of
8 1986, as amended;

9 (b) For returns filed reporting federal adjusted gross
10 income of twenty-nine thousand dollars or less, a refundable credit
11 equal to a percentage of the federal credit allowable under section
12 21 of the Internal Revenue Code of 1986, as amended, whether or
13 not the federal credit was limited by the federal tax liability.
14 The percentage of the federal credit shall be one hundred percent
15 for incomes not greater than twenty-two thousand dollars, and
16 the percentage shall be reduced by ten percent for each one
17 thousand dollars, or fraction thereof, by which the reported
18 federal adjusted gross income exceeds twenty-two thousand dollars;

19 (c) A refundable credit as provided in section 77-5209.01
20 for individuals who qualify for an income tax credit as a qualified
21 beginning farmer or livestock producer under the Beginning Farmer
22 Tax Credit Act for all taxable years beginning or deemed to begin
23 on or after January 1, 2006, under the Internal Revenue Code of
24 1986, as amended;

25 (d) A refundable credit for individuals who qualify for
26 an income tax credit under the Nebraska Advantage Microenterprise
27 Tax Credit Act or the Nebraska Advantage Research and Development

1 Act; and

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

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

8 (a) A credit for personal exemptions allowed under
9 section 77-2716.01;

10 (b) A credit for contributions to certified community
11 betterment programs as provided in the Community Development
12 Assistance Act. Each partner, each shareholder of an electing
13 subchapter S corporation, each beneficiary of an estate or trust,
14 or each member of a limited liability company shall report his or
15 her share of the credit in the same manner and proportion as he
16 or she reports the partnership, subchapter S corporation, estate,
17 trust, or limited liability company income; and

18 (c) A credit for investment in a biodiesel facility as
19 provided in section 77-27,236.

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

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

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

27 (c) A refundable credit for individuals who qualify for

1 an income tax credit as an owner of agricultural assets under the
2 Beginning Farmer Tax Credit Act for all taxable years beginning
3 or deemed to begin on or after January 1, 2009, under the
4 Internal Revenue Code of 1986, as amended. The credit allowed
5 for each partner, shareholder, member, or beneficiary of a
6 partnership, corporation, limited liability company, or estate
7 or trust qualifying for an income tax credit as an owner of
8 agricultural assets under the Beginning Farmer Tax Credit Act
9 shall be equal to the partner's, shareholder's, member's, or
10 beneficiary's portion of the amount of tax credit distributed
11 pursuant to subsection (4) of section 77-5211.

12 (5) (a) For all taxable years beginning on or after
13 January 1, 2007, and before January 1, 2009, under the Internal
14 Revenue Code of 1986, as amended, there shall be allowed to each
15 partner, shareholder, member, or beneficiary of a partnership,
16 subchapter S corporation, limited liability company, or estate or
17 trust a nonrefundable credit against the income tax imposed by
18 the Nebraska Revenue Act of 1967 equal to fifty percent of the
19 partner's, shareholder's, member's, or beneficiary's portion of the
20 amount of franchise tax paid to the state under sections 77-3801 to
21 77-3807 by a financial institution.

22 (b) For all taxable years beginning on or after January
23 1, 2009, under the Internal Revenue Code of 1986, as amended,
24 there shall be allowed to each partner, shareholder, member, or
25 beneficiary of a partnership, subchapter S corporation, limited
26 liability company, or estate or trust a nonrefundable credit
27 against the income tax imposed by the Nebraska Revenue Act of 1967

1 equal to the partner's, shareholder's, member's, or beneficiary's
2 portion of the amount of franchise tax paid to the state under
3 sections 77-3801 to 77-3807 by a financial institution.

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

11 (6) A refundable credit for individuals or entities who
12 qualify for an income tax credit under the Agritourism Insurance
13 Act. Each partner, each shareholder of an electing subchapter S
14 corporation, each beneficiary of an estate or trust, or each member
15 of a limited liability company shall report his or her share of the
16 credit in the same manner and proportion as he or she reports the
17 partnership, subchapter S corporation, estate, trust, or limited
18 liability company income.

19 Sec. 19. Section 77-2717, Reissue Revised Statutes of
20 Nebraska, is amended to read:

21 77-2717 (1)(a) The tax imposed on all resident estates
22 and trusts shall be a percentage of the federal taxable income
23 of such estates and trusts as modified in section 77-2716, plus
24 a percentage of the federal alternative minimum tax and the
25 federal tax on premature or lump-sum distributions from qualified
26 retirement plans. The additional taxes shall be recomputed by (i)
27 substituting Nebraska taxable income for federal taxable income,

1 (ii) calculating what the federal alternative minimum tax would
2 be on Nebraska taxable income and adjusting such calculations for
3 any items which are reflected differently in the determination of
4 federal taxable income, and (iii) applying Nebraska rates to the
5 result. The federal credit for prior year minimum tax, after the
6 recomputations required by the Nebraska Revenue Act of 1967, and
7 the credits provided in the Nebraska Advantage Microenterprise Tax
8 Credit Act and the Nebraska Advantage Research and Development Act
9 shall be allowed as a reduction in the income tax due. A refundable
10 income tax credit shall be allowed for all resident estates and
11 trusts under the Nebraska Advantage Microenterprise Tax Credit Act,
12 ~~and the Nebraska Advantage Research and Development Act; and the~~
13 Agritourism Insurance Act.

14 (b) The tax imposed on all nonresident estates and trusts
15 shall be the portion of the tax imposed on resident estates and
16 trusts which is attributable to the income derived from sources
17 within this state. The tax which is attributable to income derived
18 from sources within this state shall be determined by multiplying
19 the liability to this state for a resident estate or trust with
20 the same total income by a fraction, the numerator of which is
21 the nonresident estate's or trust's Nebraska income as determined
22 by sections 77-2724 and 77-2725 and the denominator of which is
23 its total federal income after first adjusting each by the amounts
24 provided in section 77-2716. The federal credit for prior year
25 minimum tax, after the recomputations required by the Nebraska
26 Revenue Act of 1967, reduced by the percentage of the total income
27 which is attributable to income from sources outside this state,

1 and the credits provided in the Nebraska Advantage Microenterprise
2 Tax Credit Act and the Nebraska Advantage Research and Development
3 Act shall be allowed as a reduction in the income tax due. A
4 refundable income tax credit shall be allowed for all nonresident
5 estates and trusts under the Nebraska Advantage Microenterprise Tax
6 Credit Act, ~~and~~ the Nebraska Advantage Research and Development
7 Act; and the Agritourism Insurance Act.

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

21 (3) The beneficiaries of such estate or trust who are
22 residents of this state shall include in their income their
23 proportionate share of such estate's or trust's federal income and
24 shall reduce their Nebraska tax liability by their proportionate
25 share of the credits as provided in the Nebraska Advantage
26 Microenterprise Tax Credit Act and the Nebraska Advantage Research
27 and Development Act. There shall be allowed to a beneficiary a

1 refundable income tax credit under the Agritourism Insurance Act
2 and the Beginning Farmer Tax Credit Act for all taxable years
3 beginning or deemed to begin on or after January 1, 2001, under the
4 Internal Revenue Code of 1986, as amended.

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

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

1 the nonresident beneficiary's share of the estate or trust income
2 which was derived from or attributable to sources within this
3 state. The amount remitted shall be allowed as a credit against the
4 Nebraska 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
9 or attributable to sources within this state, the nonresident did
10 not file an agreement to file a Nebraska income tax return, and
11 the estate or trust has remitted the amount required by subsection
12 (5) of this section on behalf of such nonresident beneficiary. The
13 amount remitted shall be retained in satisfaction of the Nebraska
14 income tax 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
18 to the beneficiaries, (b) does not allow amounts to be paid,
19 permanently set aside, or used in the tax year for charitable
20 purposes, and (c) does not distribute amounts allocated in the
21 corpus of the trust. Any trust which does not qualify as a simple
22 trust shall be deemed a 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
26 grantor was the beneficiary.

27 Sec. 20. Section 77-2734.03, Reissue Revised Statutes of

1 Nebraska, is amended to read:

2 77-2734.03 (1) (a) For taxable years commencing prior to
3 January 1, 1997, any (i) insurer paying a tax on premiums and
4 assessments pursuant to section 77-908 or 81-523, (ii) electric
5 cooperative organized under the Joint Public Power Authority Act,
6 or (iii) credit union shall be credited, in the computation of
7 the tax due under the Nebraska Revenue Act of 1967, with the
8 amount paid during the taxable year as taxes on such premiums and
9 assessments and taxes in lieu of intangible tax.

10 (b) For taxable years commencing on or after January 1,
11 1997, any insurer paying a tax on premiums and assessments pursuant
12 to section 77-908 or 81-523, any electric cooperative organized
13 under the Joint Public Power Authority Act, or any credit union
14 shall be credited, in the computation of the tax due under the
15 Nebraska Revenue Act of 1967, with the amount paid during the
16 taxable year as (i) taxes on such premiums and assessments included
17 as Nebraska premiums and assessments under section 77-2734.05 and
18 (ii) taxes in lieu of intangible tax.

19 (c) For taxable years commencing or deemed to commence
20 prior to, on, or after January 1, 1998, any insurer paying a tax on
21 premiums and assessments pursuant to section 77-908 or 81-523 shall
22 be credited, in the computation of the tax due under the Nebraska
23 Revenue Act of 1967, with the amount paid during the taxable year
24 as assessments allowed as an offset against premium and related
25 retaliatory tax liability pursuant to section 44-4233.

26 (2) There shall be allowed to corporate taxpayers a
27 tax credit for contributions to community betterment programs as

1 provided in the Community Development Assistance Act.

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

7 (4) The changes made to this section by Laws 2004, LB
8 983, apply to motor fuels purchased during any tax year ending
9 or deemed to end on or after January 1, 2005, under the Internal
10 Revenue Code of 1986, as amended.

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

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

18 (7) There shall be allowed to corporate taxpayers a
19 refundable income tax credit for small agritourism businesses as
20 provided in the Agritourism Insurance Act.

21 2. On page 14, line 9, before "Any" insert "The State
22 Treasurer shall transfer thirty percent of money credited to the
23 Local Civic, Cultural, and Convention Center Financing Fund, up to
24 one hundred thousand dollars per calendar year, to the Agritourism
25 Insurance Fund.".

26 3. On page 16, line 14, strike "and" and after the last
27 comma insert "77-2715.07, 77-2717, and 77-2734.03,".

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4. Renumber the remaining sections accordingly.