

AMENDMENTS TO LB 970

Introduced by Revenue

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

3 Section 1. Section 77-2701, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to
6 77-27,236 and section 5 of this act shall be known and may be cited
7 as the Nebraska Revenue Act of 1967.

8 Sec. 2. Section 77-2701.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-2701.01 Pursuant to section 77-2715.01, for all
11 taxable years beginning or deemed to begin on or after January 1,
12 1990, and before January 1, 1991, under the Internal Revenue Code
13 of 1986, as amended, the rate of the income tax levied pursuant to
14 section 77-2715 shall be three and forty-three-hundredths percent.
15 Pursuant to section 77-2715.01, for all taxable years beginning or
16 deemed to begin on or after January 1, 1991, and before January 1,
17 2013, under the Internal Revenue Code of 1986, as amended, the rate
18 of the income tax levied pursuant to section 77-2715 shall be three
19 and seventy-hundredths percent. Pursuant to section 77-2715.01, for
20 all taxable years beginning or deemed to begin on or after January
21 1, 2013, under the Internal Revenue Code of 1986, as amended, the
22 rates of the income tax levied pursuant to section 77-2715 shall be
23 as provided in section 5 of this act.

1 Sec. 3. Section 77-2715.01, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2715.01 (1)(a) Commencing in 1987 the Legislature
4 shall set the ~~rate~~ rates for the income tax imposed by section
5 77-2715 and the rate of the sales tax imposed by subsection (1)
6 of section 77-2703. ~~The~~ For taxable years beginning or deemed to
7 begin before January 1, 2013, the rate of the income tax set by the
8 Legislature shall be considered the primary rate for establishing
9 the tax rate schedules used to compute the tax.

10 (b) The Legislature shall set the rates of the sales tax
11 and income tax so that the estimated funds available plus estimated
12 receipts from the sales, use, income, and franchise taxes will be
13 not less than three percent nor more than seven percent in excess
14 of the appropriations and express obligations for the biennium for
15 which the appropriations are made. The purpose of this subdivision
16 is to insure that there shall be maintained in the state treasury
17 an adequate General Fund balance, considering cash flow, to meet
18 the appropriations and express obligations of the state.

19 (c) For purposes of this section, express obligation
20 shall mean an obligation which has fiscal impact identifiable by a
21 sum certain or by an established percentage or other determinative
22 factor or factors.

23 (2) The Speaker of the Legislature and the chairpersons
24 of the Legislature's Executive Board, Revenue Committee, and
25 Appropriations Committee shall meet with the Tax Commissioner
26 within ten days after July 15 and November 15 of each year
27 and shall determine whether the rates for sales tax and income

1 tax should be changed. In making such determination they shall
2 recalculate the requirements pursuant to the formula set forth
3 in subsection (1) of this section, taking into consideration
4 the appropriations and express obligations for any session,
5 all miscellaneous claims, deficiency bills, and all emergency
6 appropriations.

7 In the event it is determined by a majority vote that
8 the rates must be changed as a result of a regular or special
9 session or as a result of a change in the Internal Revenue Code
10 of 1986 and amendments thereto, other provisions of the laws of
11 the United States relating to federal income taxes, and the rules
12 and regulations issued under such laws, they shall petition the
13 Governor to call a special session of the Legislature to make
14 whatever rate changes may be necessary.

15 Sec. 4. Section 77-2715.02, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 77-2715.02 ~~(1)~~ Whenever the primary rate is changed by
18 the Legislature under section 77-2715.01, the Tax Commissioner
19 shall update the rate schedules required in subsection ~~(2)~~ of this
20 section to reflect the new primary rate and shall publish such
21 updated schedules.

22 ~~(2)~~ (1) The following rate schedules are hereby
23 established for the Nebraska individual income tax and shall be in
24 the following form:

25 (a) For taxable years beginning or deemed to begin before
26 January 1, 2007, income amounts for columns A and E shall be:

27 (i) \$0, \$2,400, \$17,500, and \$27,000, for single returns;

1 (ii) \$0, \$4,000, \$31,000, and \$50,000, for married filing
2 joint returns;

3 (iii) \$0, \$3,800, \$25,000, and \$35,000, for
4 head-of-household returns;

5 (iv) \$0, \$2,000, \$15,500, and \$25,000, for married filing
6 separate returns; and

7 (v) \$0, \$500, \$4,700, and \$15,150, for estates and
8 trusts;

9 (b) For taxable years beginning or deemed to begin on or
10 after January 1, 2007, and before January 1, 2013, income amounts
11 for columns A and E shall be:

12 (i) \$0, \$2,400, \$17,500, and \$27,000, for single returns;

13 (ii) \$0, \$4,800, \$35,000, and \$54,000, for married filing
14 joint returns;

15 (iii) \$0, \$4,500, \$28,000, and \$40,000, for
16 head-of-household returns;

17 (iv) \$0, \$2,400, \$17,500, and \$27,000, for married filing
18 separate returns; and

19 (v) \$0, \$500, \$4,700, and \$15,150, for estates and
20 trusts;

21 (c) The amount in column C shall be the total amount of
22 the tax imposed on income less than the amount in column A;

23 (d) The amount in column D shall be the rate on the
24 income in excess of the amount in column E;

25 (e) For taxable years beginning or deemed to begin
26 before January 1, 2003, under the Internal Revenue Code of 1986,
27 as amended, the primary rate set by the Legislature shall be

1 multiplied by the following factors to compute the tax rates for
2 column D. The factors for the brackets, from lowest to highest
3 bracket, shall be .6784, .9432, 1.3541, and 1.8054;

4 (f) For taxable years beginning or deemed to begin on
5 or after January 1, 2003, and before January 1, 2013, under the
6 Internal Revenue Code of 1986, as amended, the primary rate set
7 by the Legislature shall be multiplied by the following factors to
8 compute the tax rates for column D. The factors for the brackets,
9 from lowest to highest bracket, shall be .6932, .9646, 1.3846, and
10 1.848;

11 (g) The amounts for column C shall be rounded to the
12 nearest dollar, and the amounts in column D shall be rounded to
13 hundredths of one percent; and

14 (h) One rate schedule shall be established for each
15 federal filing status.

16 ~~(3)~~ (2) The tax rate schedules shall use the format set
17 forth in this subsection.

18	A	B	C	D	E
19	Taxable income	but not	pay	plus	of the
20	over	over			amount over

21 ~~(4)~~ (3) For taxable years beginning or deemed to
22 begin before January 1, 2013, the tax rate applied to other federal
23 taxes included in the computation of the Nebraska individual income
24 tax shall be eight times the primary rate.

25 ~~(5)~~ The Tax Commissioner shall prepare, from the rate
26 schedules, tax tables which can be used by a majority of the
27 taxpayers to determine their Nebraska tax liability. The design of

1 the tax tables shall be determined by the Tax Commissioner. The
2 size of the tax table brackets may change as the level of income
3 changes. The difference in tax between two tax table brackets shall
4 not exceed fifteen dollars. The Tax Commissioner may build the
5 personal exemption credit and standard deduction amounts into the
6 tax tables.

7 (6) The Tax Commissioner may require by rule and
8 regulation that all taxpayers shall use the tax tables if their
9 income is less than the maximum income included in the tax tables.

10 Sec. 5. (1) For taxable years beginning or deemed to
11 begin on or after January 1, 2013, and before January 1, 2014,
12 the following brackets and rates are hereby established for the
13 Nebraska individual income tax:

14 Individual Income Tax Brackets and Rates

15	<u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>
16	<u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>
17			<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>	
18	<u>1</u>	<u>\$0-2,399</u>	<u>\$0-4,799</u>	<u>\$0-4,499</u>	<u>\$0-2,399</u>	<u>\$0-499</u>	<u>2.45%</u>
19	<u>2</u>	<u>\$2,400-</u>	<u>\$4,800-</u>	<u>\$4,500-</u>	<u>\$2,400-</u>	<u>\$500-</u>	
20		<u>17,499</u>	<u>34,999</u>	<u>27,999</u>	<u>17,499</u>	<u>4,699</u>	<u>3.50%</u>
21	<u>3</u>	<u>\$17,500-</u>	<u>\$35,000-</u>	<u>\$28,000-</u>	<u>\$17,500-</u>	<u>\$4,700-</u>	
22		<u>26,999</u>	<u>53,999</u>	<u>39,999</u>	<u>26,999</u>	<u>15,149</u>	<u>5.00%</u>
23	<u>4</u>	<u>\$27,000</u>	<u>\$54,000</u>	<u>\$40,000</u>	<u>\$27,000</u>	<u>\$15,150</u>	
24		<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>6.84%</u>

25 (2) For taxable years beginning or deemed to begin
26 on or after January 1, 2014, and before January 1, 2015, the
27 following brackets and rates are hereby established for the
28 Nebraska individual income tax:

1 Individual Income Tax Brackets and Rates

2	<u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>
3	<u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>
4			<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>	
5	<u>1</u>	<u>\$0-2,999</u>	<u>\$0-5,999</u>	<u>\$0-5,599</u>	<u>\$0-2,999</u>	<u>\$0-499</u>	<u>2.45%</u>
6	<u>2</u>	<u>\$3,000-</u>	<u>\$6,000-</u>	<u>\$5,600-</u>	<u>\$3,000-</u>	<u>\$500-</u>	
7		<u>18,249</u>	<u>36,499</u>	<u>29,199</u>	<u>18,249</u>	<u>4,699</u>	<u>3.50%</u>
8	<u>3</u>	<u>\$18,250-</u>	<u>\$36,500-</u>	<u>\$29,200-</u>	<u>\$18,250-</u>	<u>\$4,700-</u>	
9		<u>29,999</u>	<u>59,999</u>	<u>44,499</u>	<u>29,999</u>	<u>15,149</u>	<u>5.00%</u>
10	<u>4</u>	<u>\$30,000</u>	<u>\$60,000</u>	<u>\$44,500</u>	<u>\$30,000</u>	<u>\$15,150</u>	
11		<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>6.80%</u>

12 (3) For taxable years beginning or deemed to begin on or
13 after January 1, 2015, the following brackets and rates are hereby
14 established for the Nebraska individual income tax:

15 Individual Income Tax Brackets and Rates

16	<u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>
17	<u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>
18			<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>	
19	<u>1</u>	<u>\$0-2,999</u>	<u>\$0-5,999</u>	<u>\$0-5,599</u>	<u>\$0-2,999</u>	<u>\$0-499</u>	<u>2.42%</u>
20	<u>2</u>	<u>\$3,000-</u>	<u>\$6,000-</u>	<u>\$5,600-</u>	<u>\$3,000-</u>	<u>\$500-</u>	
21		<u>18,249</u>	<u>36,499</u>	<u>29,199</u>	<u>18,249</u>	<u>4,699</u>	<u>3.40%</u>
22	<u>3</u>	<u>\$18,250-</u>	<u>\$36,500-</u>	<u>\$29,200-</u>	<u>\$18,250-</u>	<u>\$4,700-</u>	
23		<u>29,999</u>	<u>59,999</u>	<u>44,499</u>	<u>29,999</u>	<u>15,149</u>	<u>4.90%</u>
24	<u>4</u>	<u>\$30,000</u>	<u>\$60,000</u>	<u>\$44,500</u>	<u>\$30,000</u>	<u>\$15,150</u>	
25		<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>6.70%</u>

26 (4) Whenever the tax brackets or tax rates are changed
27 by the Legislature, the Tax Commissioner shall update the tax rate
28 schedules to reflect the new tax brackets or tax rates and shall

1 publish such updated schedules.

2 (5) The Tax Commissioner shall prepare, from the rate
3 schedules, tax tables which can be used by a majority of the
4 taxpayers to determine their Nebraska tax liability. The design of
5 the tax tables shall be determined by the Tax Commissioner. The
6 size of the tax table brackets may change as the level of income
7 changes. The difference in tax between two tax table brackets shall
8 not exceed fifteen dollars. The Tax Commissioner may build the
9 personal exemption credit and standard deduction amounts into the
10 tax tables.

11 (6) For taxable years beginning or deemed to begin on or
12 after January 1, 2013, the tax rate applied to other federal taxes
13 included in the computation of the Nebraska individual income tax
14 shall be 29.6 percent.

15 (7) The Tax Commissioner may require by rule and
16 regulation that all taxpayers shall use the tax tables if their
17 income is less than the maximum income included in the tax tables.

18 Sec. 6. Section 77-2717, Revised Statutes Supplement,
19 2011, is amended to read:

20 77-2717 (1)(a) The tax imposed on all resident estates
21 and trusts shall be a percentage of the federal taxable income
22 of such estates and trusts as modified in section 77-2716, plus
23 a percentage of the federal alternative minimum tax and the
24 federal tax on premature or lump-sum distributions from qualified
25 retirement plans. The additional taxes shall be recomputed by (i)
26 substituting Nebraska taxable income for federal taxable income,
27 (ii) calculating what the federal alternative minimum tax would

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

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

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

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

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

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

4 (4) If any beneficiary of such estate or trust is a
5 nonresident during any part of the estate's or trust's taxable
6 year, he or she shall file a Nebraska income tax return which shall
7 include (a) in Nebraska adjusted gross income that portion of the
8 estate's or trust's Nebraska income, as determined under sections
9 77-2724 and 77-2725, allocable to his or her interest in the
10 estate or trust and (b) a reduction of the Nebraska tax liability
11 by his or her proportionate share of the credits as provided
12 in the Angel Investment Tax Credit Act, the Nebraska Advantage
13 Microenterprise Tax Credit Act, and the Nebraska Advantage Research
14 and Development Act and shall execute and forward to the fiduciary,
15 on or before the original due date of the Nebraska fiduciary
16 return, an agreement which states that he or she will file a
17 Nebraska income tax return and pay income tax on all income derived
18 from or connected with sources in this state, and such agreement
19 shall be attached to the Nebraska fiduciary return for such taxable
20 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 For taxable
26 years beginning or deemed to begin before January 1, 2013, the
27 amount of remittance, in such instance, shall be the highest

1 individual income tax rate determined under section 77-2715.02
2 multiplied by the nonresident beneficiary's share of the estate
3 or trust income which was derived from or attributable to sources
4 within this state. For taxable years beginning or deemed to
5 begin on or after January 1, 2013, the amount of remittance,
6 in such instance, shall be the highest individual income tax
7 rate determined under section 5 of this act multiplied by the
8 nonresident beneficiary's share of the estate or trust income which
9 was derived from or attributable to sources within this state. The
10 amount remitted shall be allowed as a credit against the Nebraska
11 income tax liability of the beneficiary.

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

22 (7) For purposes of this section, unless the context
23 otherwise requires, simple trust shall mean any trust instrument
24 which (a) requires that all income shall be distributed currently
25 to the beneficiaries, (b) does not allow amounts to be paid,
26 permanently set aside, or used in the tax year for charitable
27 purposes, and (c) does not distribute amounts allocated in the

1 corpus of the trust. Any trust which does not qualify as a simple
2 trust shall be deemed a complex trust.

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

7 Sec. 7. Section 77-2727, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 77-2727 (1) A partnership as such shall not be subject
10 to the income tax imposed by the Nebraska Revenue Act of 1967.
11 Persons or their authorized representatives carrying on business
12 as partners shall be liable for the income tax imposed by the
13 Nebraska Revenue Act of 1967 only in their separate or individual
14 capacities.

15 (2) The partners of such partnership who are residents
16 of this state or corporations shall include in their incomes their
17 proportionate share of such partnership's income.

18 (3) If any partner of such partnership is a nonresident
19 individual during any part of the partnership's reporting year, he
20 or she shall file a Nebraska income tax return which shall include
21 in Nebraska adjusted gross income that portion of the partnership's
22 Nebraska income, as determined under the provisions of sections
23 77-2728 and 77-2729, allocable to his or her interest in the
24 partnership and shall execute and forward to the partnership, on or
25 before the original due date of the Nebraska partnership return,
26 an agreement which states that he or she will file a Nebraska
27 income tax return and pay income tax on all income derived from

1 or attributable to sources in this state, and such agreement shall
2 be attached to the partnership's Nebraska return for such reporting
3 year.

4 (4)(a) Except as provided in subdivision (c) of this
5 subsection, in the absence of the nonresident individual partner's
6 executed agreement being attached to the Nebraska partnership
7 return, the partnership shall remit a portion of such partner's
8 income which was derived from or attributable to Nebraska sources
9 with its Nebraska return for the reporting year. The For tax years
10 beginning or deemed to begin before January 1, 2013, the amount
11 of remittance, in such instance, shall be the highest individual
12 income tax rate determined under section 77-2715.02 multiplied
13 by the nonresident individual partner's share of the partnership
14 income which was derived from or attributable to sources within
15 this state. For tax years beginning or deemed to begin on or
16 after January 1, 2013, the amount of remittance, in such instance,
17 shall be the highest individual income tax rate determined under
18 section 5 of this act multiplied by the nonresident individual
19 partner's share of the partnership income which was derived from or
20 attributable to sources within this state.

21 (b) Any amount remitted on behalf of any partner shall be
22 allowed as a credit against the Nebraska income tax liability of
23 the partner.

24 (c) Subdivision (a) of this subsection does not apply to
25 a publicly traded partnership as defined by section 7704(b) of the
26 Internal Revenue Code of 1986, as amended, that is treated as a
27 partnership for the purposes of the code and that has agreed to

1 file an annual information return with the Department of Revenue
2 reporting the name, address, taxpayer identification number, and
3 other information requested by the department of each unit holder
4 with an income in the state in excess of five hundred dollars.

5 (5) The Tax Commissioner may allow a nonresident
6 individual partner to not file a Nebraska income tax return if the
7 nonresident individual partner's only source of Nebraska income was
8 his or her share of the partnership'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 the
11 partnership has remitted the amount required by subsection (4) of
12 this section on behalf of such nonresident individual partner. The
13 amount remitted shall be retained in satisfaction of the Nebraska
14 income tax liability of the nonresident individual partner.

15 (6) For purposes of this section, any partner that is
16 a grantor trust of a nonresident shall be disregarded and this
17 section shall apply as though the nonresident grantor was the
18 partner.

19 Sec. 8. Section 77-2734.01, Revised Statutes Cumulative
20 Supplement, 2010, is amended to read:

21 77-2734.01 (1) Residents of Nebraska who are shareholders
22 of a small business corporation having an election in effect under
23 subchapter S of the Internal Revenue Code or who are members
24 of a limited liability company organized pursuant to the Limited
25 Liability Company Act or the Nebraska Uniform Limited Liability
26 Company Act shall include in their Nebraska taxable income, to
27 the extent includable in federal gross income, their proportionate

1 share of such corporation's or limited liability company's federal
2 income adjusted pursuant to this section. Income or loss from such
3 corporation or limited liability company conducting a business,
4 trade, profession, or occupation shall be included in the Nebraska
5 taxable income of a shareholder or member who is a resident of this
6 state to the extent of such shareholder's or member's proportionate
7 share of the net income or loss from the conduct of such business,
8 trade, profession, or occupation within this state, determined
9 under subsection (2) of this section. A resident of Nebraska
10 shall include in Nebraska taxable income fair compensation for
11 services rendered to such corporation or limited liability company.
12 Compensation actually paid shall be presumed to be fair unless
13 it is apparent to the Tax Commissioner that such compensation is
14 materially different from fair value for the services rendered or
15 has been manipulated for tax avoidance purposes.

16 (2) The income of any small business corporation having
17 an election in effect under subchapter S of the Internal Revenue
18 Code or limited liability company organized pursuant to the Limited
19 Liability Company Act or the Nebraska Uniform Limited Liability
20 Company Act that is derived from or connected with Nebraska sources
21 shall be determined in the following manner:

22 (a) If the small business corporation is a member of a
23 unitary group, the small business corporation shall be deemed to
24 be doing business within this state if any part of its income
25 is derived from transactions with other members of the unitary
26 group doing business within this state, and such corporation
27 shall apportion its income by using the apportionment factor

1 determined for the entire unitary group, including the small
2 business corporation, under sections 77-2734.05 to 77-2734.15;

3 (b) If the small business corporation or limited
4 liability company is not a member of a unitary group and is subject
5 to tax in another state, it shall apportion its income under
6 sections 77-2734.05 to 77-2734.15; and

7 (c) If the small business corporation or limited
8 liability company is not subject to tax in another state, all of
9 its income is derived from or connected with Nebraska sources.

10 (3) Nonresidents of Nebraska who are shareholders of
11 such corporations or members of such limited liability companies
12 shall file a Nebraska income tax return and shall include in
13 Nebraska adjusted gross income their proportionate share of the
14 corporation's or limited liability company's Nebraska income as
15 determined under subsection (2) of this section.

16 (4) The nonresident shareholder or member shall execute
17 and forward to the corporation or limited liability company before
18 the filing of the corporation's or limited liability company's
19 return an agreement which states he or she will file a Nebraska
20 income tax return and pay the tax on the income derived from or
21 connected with sources in this state, and such agreement shall
22 be attached to the corporation's or limited liability company's
23 Nebraska return for such taxable year.

24 (5) ~~In~~ For taxable years beginning or deemed to begin
25 before January 1, 2013, in the absence of the nonresident
26 shareholder's or member's executed agreement being attached to
27 the Nebraska return, the corporation or limited liability company

1 shall remit with the return an amount equal to the highest
2 individual income tax rate determined under section 77-2715.02
3 multiplied by the nonresident shareholder's or member's share of
4 the corporation's or limited liability company's income which was
5 derived from or attributable to this state. For taxable years
6 beginning or deemed to begin on or after January 1, 2013, in
7 the absence of the nonresident shareholder's or member's executed
8 agreement being attached to the Nebraska return, the corporation
9 or limited liability company shall remit with the return an amount
10 equal to the highest individual income tax rate determined under
11 section 5 of this act multiplied by the nonresident shareholder's
12 or member's share of the corporation's or limited liability
13 company's income which was derived from or attributable to this
14 state. The amount remitted shall be allowed as a credit against the
15 Nebraska income tax liability of the shareholder or member.

16 (6) The Tax Commissioner may allow a nonresident
17 individual shareholder or member to not file a Nebraska income
18 tax return if the nonresident individual shareholder's or member's
19 only source of Nebraska income was his or her share of the small
20 business corporation's or limited liability company's income which
21 was derived from or attributable to sources within this state, the
22 nonresident did not file an agreement to file a Nebraska income
23 tax return, and the small business corporation or limited liability
24 company has remitted the amount required by subsection (5) of this
25 section on behalf of such nonresident individual shareholder or
26 member. The amount remitted shall be retained in satisfaction of
27 the Nebraska income tax liability of the nonresident individual

1 shareholder or member.

2 (7) A small business corporation or limited liability
3 company return shall be filed only if one or more of the
4 shareholders of the corporation or members of the limited liability
5 company are not residents of the State of Nebraska or if such
6 corporation or limited liability company has income derived from
7 sources outside this state.

8 (8) For purposes of this section, any shareholder or
9 member of the corporation or limited liability company that is
10 a grantor trust of a nonresident shall be disregarded and this
11 section shall apply as though the nonresident grantor was the
12 shareholder or member.

13 Sec. 9. Section 77-2734.02, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 77-2734.02 (1) Except as provided in subsection (2) of
16 this section, a tax is hereby imposed ~~for each taxable year~~ on the
17 taxable income of every corporate taxpayer that is doing business
18 in this state:

19 (a) For taxable years beginning or deemed to begin
20 before January 1, 2013, at a rate equal to one hundred fifty and
21 eight-tenths percent of the primary rate imposed on individuals
22 under section 77-2701.01 on the first one hundred thousand dollars
23 of taxable income and at the rate of two hundred eleven percent of
24 such rate on all taxable income in excess of one hundred thousand
25 dollars. The resultant rates shall be rounded to the nearest one
26 hundredth of one percent; ~~and-~~

27 (b) For taxable years beginning or deemed to begin on

1 or after January 1, 2013, at a rate equal to 5.58 percent on the
2 first one hundred thousand dollars of taxable income and at the
3 rate of 7.81 percent on all taxable income in excess of one hundred
4 thousand dollars.

5 For corporate taxpayers with a fiscal year that does not
6 coincide with the calendar year, the individual rate used for this
7 subsection shall be the rate in effect on the first day, or the day
8 deemed to be the first day, of the taxable year.

9 (2) An insurance company shall be subject to taxation
10 at the lesser of the rate described in subsection (1) of this
11 section or the rate of tax imposed by the state or country in which
12 the insurance company is domiciled if the insurance company can
13 establish to the satisfaction of the Tax Commissioner that it is
14 domiciled in a state or country other than Nebraska that imposes
15 on Nebraska domiciled insurance companies a retaliatory tax against
16 the tax described in subsection (1) of this section.

17 (3) For a corporate taxpayer that is subject to tax in
18 another state, its taxable income shall be the portion of the
19 taxpayer's federal taxable income, as adjusted, that is determined
20 to be connected with the taxpayer's operations in this state
21 pursuant to sections 77-2734.05 to 77-2734.15.

22 (4) Each corporate taxpayer shall file only one income
23 tax return for each taxable year.

24 Sec. 10. Original sections 77-2701, 77-2701.01,
25 77-2715.01, 77-2715.02, 77-2727, and 77-2734.02, Reissue Revised
26 Statutes of Nebraska, section 77-2734.01, Revised Statutes
27 Cumulative Supplement, 2010, and section 77-2717, Revised Statutes

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1 Supplement, 2011, are repealed.