

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 1128

Introduced by Schumacher, 22; Mello, 5.

Read first time January 19, 2012

Committee: Revenue

A BILL

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

1 Section 1. Sections 1 to 22 of this act shall be known
2 and may be cited as the New Markets Job Growth Investment Act.

3 Sec. 2. For purposes of the New Markets Job Growth
4 Investment Act, the definitions in sections 3 to 13 of this act
5 apply.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 investment; and

2 (d) Is certified by the Tax Commissioner as not exceeding
3 the limitation contained in section 16 of this act.

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

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

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

19 Sec. 13. Taxpayer means any individual or entity subject
20 to a tax imposed under the Nebraska Revenue Act of 1967 or sections
21 77-907 to 77-918 or 77-3801 to 77-3807.

22 Sec. 14. A taxpayer that acquires a qualified equity
23 investment earns tax credits as follows:

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

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

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

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

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

20 Sec. 16. The Tax Commissioner shall limit the monetary
21 amount of qualified equity investments permitted under the New
22 Markets Job Growth Investment Act to a level necessary to limit tax
23 credit utilization at no more than fifteen million dollars of tax
24 credits in any fiscal year. Such limitation on qualified equity
25 investments shall be based on the anticipated utilization of credits

1 without regard to the potential for taxpayers to carry forward tax
2 credits to later tax years.

3 Sec. 17. (1) A qualified community development entity
4 that seeks to have an equity investment or long-term debt security
5 designated as a qualified entity investment and eligible for tax
6 credits under the New Markets Job Growth Investment Act shall apply
7 to the Tax Commissioner. The qualified community development entity
8 shall submit an application on a form that the Tax Commissioner
9 provides that includes:

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

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

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

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

22 (e) Identifying information for any taxpayer eligible to
23 utilize tax credits earned as a result of the issuance of the
24 qualified equity investment;

25 (f) Information regarding the proposed use of proceeds

1 from the issuance of the qualified equity investment; and

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

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

19 (3) If the application is deemed complete, the Tax
20 Commissioner shall certify the proposed equity investment or long-
21 term debt security as a qualified equity investment that is eligible
22 for tax credits, subject to the limitations contained in section 16
23 of this act. The Tax Commissioner shall provide written notice of the
24 certification to the qualified community development entity. The
25 notice shall include the names of those taxpayers who are eligible to

1 utilize the credits and their respective credit amounts. If the names
2 of the taxpayers who are eligible to utilize the credits change due
3 to a transfer of a qualified equity investment or a change in an
4 allocation pursuant to section 15 of this act, the qualified
5 community development entity shall notify the Tax Commissioner of
6 such change.

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

17 (5) Once the Tax Commissioner has certified qualified
18 equity investments that, on a cumulative basis, are eligible for the
19 maximum limitation contained in section 16 of this act, the Tax
20 Commissioner may not certify any more qualified equity investments
21 for that fiscal year. If a pending request cannot be fully certified,
22 the Tax Commissioner shall certify the portion that may be certified
23 unless the qualified community development entity elects to withdraw
24 its request rather than receive partial credit.

25 (6) Within thirty days after receiving notice of

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

14 Sec. 18. The issuer of the qualified equity investment
15 shall certify to the Tax Commissioner the anticipated dollar amount
16 of those investments to be made in this state during the first
17 twelve-month period following the initial credit allowance date. If,
18 on the second credit allowance date, the actual dollar amount of
19 those investments is different than the amount estimated, the Tax
20 Commissioner shall adjust the credits arising on the second credit
21 allowance date to account for that difference.

22 Sec. 19. (1) If the proceeds of a qualified equity
23 investment are invested completely in qualified low-income community
24 investments in this state, the purchase price, for the purpose of
25 calculating the credit allowed under the New Markets Job Growth

1 Investment Act, shall equal one hundred percent of the qualified
2 equity investment, regardless of the location of investments made
3 with the proceeds of other qualified equity investments issued by the
4 same qualified community development entity.

5 (2) To the extent a portion of a qualified equity
6 investment is not invested in this state, the purchase price shall be
7 reduced by the same ratio, independently of the location of
8 investments made with proceeds of other qualified equity investments
9 issued by the same qualified community development entity. In that
10 case, the burden is on the qualified community development entity to
11 establish the extent to which the qualified equity investments are
12 fully invested in this state, either by establishing that the
13 qualified community development entity itself invests exclusively in
14 this state, or otherwise establishing, through direct tracing, the
15 portion of a qualified equity investment invested solely in this
16 state.

17 Sec. 20. (1) The Tax Commissioner shall recapture, from
18 the taxpayer that claimed the credit on a return, the tax credit
19 allowed under the New Market Job Growth Investment Act if:

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

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

6 (2) Subdivision (1)(b)(i) of this section shall not apply
7 to an investment that has been sold or repaid if the issuer reinvests
8 an amount equal to the capital returned to or recovered by the issuer
9 from the original investment, exclusive of any profits realized, in
10 another qualified low-income community investment within twelve
11 months of the receipt of such capital. An issuer shall not be
12 required to reinvest capital returned from qualified low-income
13 community investments after the sixth credit allowance date, the
14 proceeds of which were used to make the qualified low-income
15 community investment, and the qualified low-income community
16 investment shall be considered held by the issuer through the seventh
17 credit allowance date.

18 Sec. 21. The enforcement of sections 18 and 20 of this
19 act shall be subject to a six-month cure period. No adjustment under
20 section 18 of this act or recapture under section 20 of this act
21 shall occur until the qualified community development entity has been
22 given notice of noncompliance and afforded six months from the date
23 of such notice to cure the noncompliance.

24 Sec. 22. (1) The Tax Commissioner shall issue letter
25 rulings regarding the tax credit program authorized under the New

1 Markets Job Growth Investment Act subject to the terms and conditions
2 set forth in rules and regulations.

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

11 (a) The applicant requests the Tax Commissioner to
12 determine whether a statute is constitutional or a rule or regulation
13 is lawful;

14 (b) The request involves a hypothetical situation or
15 alternative plans;

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

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

22 (3) A letter ruling shall bind the Tax Commissioner until
23 such time as the taxpayer or its shareholders, members, or partners,
24 as applicable, claim all of such tax credits on a tax return which is
25 the topic of the letter ruling, subject to the terms and conditions

1 set forth in rules and regulations. The letter ruling shall apply
2 only to the applicant.

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

9 Sec. 23. Section 49-801.01, Revised Statutes Supplement,
10 2011, is amended to read:

11 49-801.01 Except as provided by Article VIII, section 1B,
12 of the Constitution of Nebraska and in sections 77-2701.01, 77-2714
13 to 77-27,123, 77-27,191, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
14 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
15 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 6, 8, 9,
16 20, and 22 of this act, any reference to the Internal Revenue Code
17 refers to the Internal Revenue Code of 1986 as it exists on February
18 23, 2011.

19 Sec. 24. Section 77-908, Revised Statutes Cumulative
20 Supplement, 2010, is amended to read:

21 77-908 Every insurance company organized under the stock,
22 mutual, assessment, or reciprocal plan, except fraternal benefit
23 societies, which is transacting business in this state shall, on or
24 before March 1 of each year, pay a tax to the director of one percent
25 of the gross amount of direct writing premiums received by it during

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

1 such insurance company shall receive a credit on the tax imposed as
2 provided in the Community Development Assistance Act and in the New
3 Markets Job Growth Investment Act.

4 Sec. 25. Section 77-2715.07, Revised Statutes Supplement,
5 2011, is amended to read:

6 77-2715.07 (1) There shall be allowed to qualified
7 resident individuals as a nonrefundable credit against the income tax
8 imposed by the Nebraska Revenue Act of 1967:

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

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

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

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

20 (b) For returns filed reporting federal adjusted gross
21 income of twenty-nine thousand dollars or less, a refundable credit
22 equal to a percentage of the federal credit allowable under section
23 21 of the Internal Revenue Code of 1986, as amended, whether or not
24 the federal credit was limited by the federal tax liability. The
25 percentage of the federal credit shall be one hundred percent for

1 incomes not greater than twenty-two thousand dollars, and the
2 percentage shall be reduced by ten percent for each one thousand
3 dollars, or fraction thereof, by which the reported federal adjusted
4 gross income exceeds twenty-two thousand dollars;

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

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

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

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

21 (a) A credit for personal exemptions allowed under
22 section 77-2716.01;

23 (b) A credit for contributions to certified community
24 betterment programs as provided in the Community Development
25 Assistance Act. Each partner, each shareholder of an electing

1 subchapter S corporation, each beneficiary of an estate or trust, or
2 each member of a limited liability company shall report his or her
3 share of the credit in the same manner and proportion as he or she
4 reports the partnership, subchapter S corporation, estate, trust, or
5 limited liability company income; ~~and~~

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

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

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

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

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

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

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

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

13 (b) For all taxable years beginning on or after January
14 1, 2009, under the Internal Revenue Code of 1986, as amended, there
15 shall be allowed to each partner, shareholder, member, or beneficiary
16 of a partnership, subchapter S corporation, limited liability
17 company, or estate or trust a nonrefundable credit against the income
18 tax imposed by the Nebraska Revenue Act of 1967 equal to 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 (c) Each partner, shareholder, member, or beneficiary
23 shall report his or her share of the credit in the same manner and
24 proportion as he or she reports the partnership, subchapter S
25 corporation, limited liability company, or estate or trust income. If

1 any partner, shareholder, member, or beneficiary cannot fully utilize
2 the credit for that year, the credit may not be carried forward or
3 back.

4 Sec. 26. Section 77-2717, Revised Statutes Supplement,
5 2011, is amended to read:

6 77-2717 (1)(a) The tax imposed on all resident estates
7 and trusts shall be a percentage of the federal taxable income of
8 such estates and trusts as modified in section 77-2716, plus a
9 percentage of the federal alternative minimum tax and the federal tax
10 on premature or lump-sum distributions from qualified retirement
11 plans. The additional taxes shall be recomputed by (i) substituting
12 Nebraska taxable income for federal taxable income, (ii) calculating
13 what the federal alternative minimum tax would be on Nebraska taxable
14 income and adjusting such calculations for any items which are
15 reflected differently in the determination of federal taxable income,
16 and (iii) applying Nebraska rates to the result. The federal credit
17 for prior year minimum tax, after the recomputations required by the
18 Nebraska Revenue Act of 1967, and the credits provided in the
19 Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska
20 Advantage Research and Development Act shall be allowed as a
21 reduction in the income tax due. A refundable income tax credit shall
22 be allowed for all resident estates and trusts under the Angel
23 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
24 Credit Act, and the Nebraska Advantage Research and Development Act.
25 A nonrefundable income tax credit shall be allowed for all resident

1 estates and trusts as provided in the New Markets Job Growth
2 Investment Act.

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

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

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

24 (4) If any beneficiary of such estate or trust is a
25 nonresident during any part of the estate's or trust's taxable year,

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

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

1 income tax liability of the beneficiary.

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

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

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

24 Sec. 27. Section 77-2734.03, Reissue Revised Statutes of
25 Nebraska, is amended to read:

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

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

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

25 (2) There shall be allowed to corporate taxpayers a tax

1 credit for contributions to community betterment programs as provided
2 in the Community Development Assistance Act.

3 (3) There shall be allowed to corporate taxpayers a
4 refundable income tax credit under the Beginning Farmer Tax Credit
5 Act for all taxable years beginning or deemed to begin on or after
6 January 1, 2001, under the Internal Revenue Code of 1986, as 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 or
9 deemed to end on or after January 1, 2005, under the Internal Revenue
10 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 nonrefundable income tax credit as provided in the New Markets Job
20 Growth Investment Act.

21 Sec. 28. Section 77-3806, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-3806 (1) The tax return shall be filed and the total
24 amount of the franchise tax shall be due on the fifteenth day of the
25 third month after the end of the taxable year. No extension of time

1 to pay the tax shall be granted. If the Tax Commissioner determines
2 that the amount of tax can be computed from available information
3 filed by the financial institutions with either state or federal
4 regulatory agencies, the Tax Commissioner may, by regulation, waive
5 the requirement for the financial institutions to file returns.

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

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

19 (4) Any such financial institution shall receive a credit
20 on the franchise tax as provided under the Community Development
21 Assistance Act and under the new Markets Job Growth Investment Act.

22 Sec. 29. This act is operative for all taxable years
23 beginning or deemed to begin on or after January 1, 2012, under the
24 Internal Revenue Code of 1986, as amended.

25 Sec. 30. Original sections 77-2734.03 and 77-3806,

1 Reissue Revised Statutes of Nebraska, section 77-908, Revised
2 Statutes Cumulative Supplement, 2010, and sections 49-801.01,
3 77-2715.07, and 77-2717, Revised Statutes Supplement, 2011, are
4 repealed.