

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 620**

Introduced by Larson, 40.

Read first time January 19, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-2701.01, 77-2715, 77-2715.01, 77-2715.07, 77-2716.01,  
3 77-2717, 77-2727, 77-2734.02, and 77-3804, Reissue  
4 Revised Statutes of Nebraska, and section 77-2734.01,  
5 Revised Statutes Cumulative Supplement, 2010; to change  
6 income tax rates and calculations, exemptions, and  
7 deductions; to eliminate tax credits; to harmonize  
8 provisions; to provide an operative date; to repeal the  
9 original sections; and to outright repeal sections  
10 77-2715.02 and 77-2716.03, Reissue Revised Statutes of  
11 Nebraska.

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

1           Section 1. Section 77-2701.01, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           77-2701.01 Pursuant to section 77-2715.01, for all  
4 taxable years beginning or deemed to begin on or after January 1,  
5 1990, under the Internal Revenue Code of 1986, as amended, the rate  
6 of the income tax levied pursuant to section 77-2715 shall be three  
7 and forty-three-hundredths percent. Pursuant to section 77-2715.01,  
8 for all taxable years beginning or deemed to begin on or after  
9 January 1, 1991, and before January 1, 2014, under the Internal  
10 Revenue Code of 1986, as amended, the rate of the income tax levied  
11 pursuant to section 77-2715 shall be three and seventy-hundredths  
12 percent. Pursuant to section 77-2715.01, for all taxable years  
13 beginning or deemed to begin on or after January 1, 2014, under the  
14 Internal Revenue Code of 1986, as amended, the rate of the income tax  
15 levied pursuant to section 77-2715 shall be three and one-half  
16 percent.

17           Sec. 2. Section 77-2715, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           77-2715 (1) A tax is hereby imposed for each taxable year  
20 on the entire income of every resident individual and on the income  
21 of every nonresident individual and partial-year resident individual  
22 which is derived from sources within this state, except that any  
23 individual who has additions to adjusted gross income pursuant to  
24 section 77-2716 of less than five thousand dollars shall not have an  
25 individual income tax liability after nonrefundable credits under the

1 Nebraska Revenue Act of 1967 that exceeds his or her individual  
2 income tax liability before credits under the Internal Revenue Code  
3 of 1986.

4 (2) The tax for each resident individual shall be a  
5 percentage of such individual's federal adjusted gross income as  
6 modified in ~~sections~~ section 77-2716, ~~and 77-2716.01,~~ plus a  
7 percentage of the federal alternative minimum tax and the federal tax  
8 on premature or lump-sum distributions from qualified retirement  
9 plans. The additional taxes shall be recomputed by (a) substituting  
10 Nebraska taxable income for federal taxable income, (b) calculating  
11 what the federal alternative minimum tax would be on Nebraska taxable  
12 income and adjusting such calculations for any items which are  
13 reflected differently in the determination of federal taxable income,  
14 and (c) applying the Nebraska rates ~~rate~~ to the result. The federal  
15 credit for prior year minimum tax, after the recomputations required  
16 by the act, shall be allowed as a reduction in the income tax due.

17 (3) The tax for each nonresident individual and partial-  
18 year resident individual shall be the portion of the tax imposed on  
19 resident individuals which is attributable to the income derived from  
20 sources within this state. The tax which is attributable to income  
21 derived from sources within this state shall be determined by  
22 ~~subtracting from~~ multiplying the liability to this state for a  
23 resident individual with the same total income ~~the credit for~~  
24 ~~personal exemptions and multiplying the result by~~ a fraction, the  
25 numerator of which is the nonresident individual's or partial-year

1 resident individual's Nebraska adjusted gross income as determined by  
2 section 77-2733 or 77-2733.01 and the denominator of which is his or  
3 her total federal adjusted gross income, after first adjusting each  
4 by the amounts provided in section 77-2716. If this determination  
5 attributes more or less tax than is reasonably attributable to income  
6 derived from sources within this state, the taxpayer may petition for  
7 or the Tax Commissioner may require the employment of any other  
8 method to attribute an amount of tax which is reasonable and  
9 equitable in the circumstances.

10 (4) The tax for each estate and trust, other than trusts  
11 taxed as corporations under the Internal Revenue Code of 1986, shall  
12 be as determined under section 77-2717.

13 (5) A refund shall be allowed to the extent that the  
14 income tax paid by the individual, estate, or trust for the taxable  
15 year exceeds the income tax payable, except that no refund shall be  
16 made in any amount less than two dollars.

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

19 77-2715.01 (1)(a) Commencing in 1987 the Legislature  
20 shall set the rate for the income tax imposed by section 77-2715 and  
21 the rate of the sales tax imposed by subsection (1) of section  
22 77-2703. ~~The rate of the income tax set by the Legislature shall be~~  
23 ~~considered the primary rate for establishing the tax rate schedules~~  
24 ~~used to compute the tax.~~

25 (b) The Legislature shall set the rates of the sales tax

1 and income tax so that the estimated funds available plus estimated  
2 receipts from the sales, use, income, and franchise taxes will be not  
3 less than three percent nor more than seven percent in excess of the  
4 appropriations and express obligations for the biennium for which the  
5 appropriations are made. The purpose of this subdivision is to insure  
6 that there shall be maintained in the state treasury an adequate  
7 General Fund balance, considering cash flow, to meet the  
8 appropriations and express obligations of the state.

9 (c) For purposes of this section, express obligation  
10 shall mean an obligation which has fiscal impact identifiable by a  
11 sum certain or by an established percentage or other determinative  
12 factor or factors.

13 (2) The Speaker of the Legislature and the chairpersons  
14 of the Legislature's Executive Board, Revenue Committee, and  
15 Appropriations Committee shall meet with the Tax Commissioner within  
16 ten days after July 15 and November 15 of each year and shall  
17 determine whether the rates for sales tax and income tax should be  
18 changed. In making such determination they shall recalculate the  
19 requirements pursuant to the formula set forth in subsection (1) of  
20 this section, taking into consideration the appropriations and  
21 express obligations for any session, all miscellaneous claims,  
22 deficiency bills, and all emergency appropriations.

23 In the event it is determined by a majority vote that the  
24 rates must be changed as a result of a regular or special session or  
25 as a result of a change in the Internal Revenue Code of 1986 and

1 amendments thereto, other provisions of the laws of the United States  
2 relating to federal income taxes, and the rules and regulations  
3 issued under such laws, they shall petition the Governor to call a  
4 special session of the Legislature to make whatever rate changes may  
5 be necessary.

6 Sec. 4. Section 77-2715.07, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 77-2715.07 (1) ~~There~~ For taxable years beginning before  
9 January 1, 2014, there shall be allowed to qualified resident  
10 individuals as a nonrefundable credit against the income tax imposed  
11 by the Nebraska Revenue Act of 1967: ~~(a) A~~ a credit equal to the  
12 federal credit allowed under section 22 of the Internal Revenue  
13 Code. ~~;~~ and

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

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

19 (a) ~~For~~ For taxable years beginning before January 1,  
20 2014, for returns filed reporting federal adjusted gross incomes of  
21 greater than twenty-nine thousand dollars, a nonrefundable credit  
22 equal to twenty-five percent of the federal credit allowed under  
23 section 21 of the Internal Revenue Code of 1986, as amended;

24 (b) ~~For~~ For taxable years beginning before January 1,  
25 2014, for returns filed reporting federal adjusted gross income of

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

10 (c) ~~A~~ For taxable years beginning before January 1, 2014,  
11 a refundable credit as provided in section 77-5209.01 for individuals  
12 who qualify for an income tax credit as a qualified beginning farmer  
13 or livestock producer under the Beginning Farmer Tax Credit Act for  
14 all taxable years beginning or deemed to begin on or after January 1,  
15 2006, under the Internal Revenue Code of 1986, as amended;

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

20 (e) ~~A~~ For taxable years beginning before January 1, 2014,  
21 a refundable credit equal to ten percent of the federal credit  
22 allowed under section 32 of the Internal Revenue Code of 1986, as  
23 amended.

24 (3) ~~There~~ For taxable years beginning before January 1,  
25 2014, there shall be allowed to all individuals as a nonrefundable

1 credit against the income tax imposed by the Nebraska Revenue Act of  
2 1967:

3 (a) A credit for personal exemptions allowed under  
4 section 77-2716.01;

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

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

15 (4) ~~There~~ For taxable years beginning before January 1,  
16 2014, there shall be allowed as a credit against the income tax  
17 imposed by the Nebraska Revenue Act of 1967:

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

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

23 ~~(e)~~ (b) A refundable credit for individuals who qualify  
24 for an income tax credit as an owner of agricultural assets under the  
25 Beginning Farmer Tax Credit Act for all taxable years beginning or

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

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

19           (b) For all taxable years beginning on or after January  
20 1, 2009, and before January 1, 2014, under the Internal Revenue Code  
21 of 1986, as amended, there shall be allowed to each partner,  
22 shareholder, member, or beneficiary of a partnership, subchapter S  
23 corporation, limited liability company, or estate or trust a  
24 nonrefundable credit against the income tax imposed by the Nebraska  
25 Revenue Act of 1967 equal to the partner's, shareholder's, member's,

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

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

10 Sec. 5. Section 77-2716.01, Reissue Revised Statutes of  
11 Nebraska, is amended to read:

12 77-2716.01 ~~(1) Every individual shall be allowed to~~  
13 ~~subtract from his or her income tax liability an amount for personal~~  
14 ~~exemptions. The amount allowed to be subtracted shall be the credit~~  
15 ~~amount for the year as provided in this section multiplied by the~~  
16 ~~number of exemptions allowed on the federal return. For tax year~~  
17 ~~1993, the credit amount shall be sixty five dollars; for tax year~~  
18 ~~1994, the credit amount shall be sixty nine dollars; for tax year~~  
19 ~~1995, the credit amount shall be sixty nine dollars; for tax year~~  
20 ~~1996, the credit amount shall be seventy two dollars; for tax year~~  
21 ~~1997, the credit amount shall be eighty six dollars; for tax year~~  
22 ~~1998, the credit amount shall be eighty eight dollars; for tax year~~  
23 ~~1999, and each year thereafter, the credit amount shall be adjusted~~  
24 ~~for inflation by the method provided in section 151 of the Internal~~  
25 ~~Revenue Code of 1986, as amended. The eighty eight dollar credit~~

1 amount shall be adjusted for cumulative inflation since 1998. If any  
2 credit amount is not an even dollar amount, the amount shall be  
3 rounded to the nearest dollar. For nonresident individuals and  
4 partial-year resident individuals, the personal exemption credit  
5 shall be subtracted as specified in subsection (3) of section  
6 77-2715.

7 (1) Every individual shall be allowed to subtract from  
8 federal adjusted gross income a personal exemption of three thousand  
9 dollars.

10 ~~(2)(a) For tax years beginning or deemed to begin on or~~  
11 ~~after January 1, 2003, and before January 1, 2004, under the Internal~~  
12 ~~Revenue Code of 1986, as amended, every~~ (2) Every individual who did  
13 ~~not itemize deductions on his or her federal return shall be allowed~~  
14 ~~to subtract from federal adjusted gross income a standard deduction~~  
15 ~~based on the filing status used on the federal return, except as the~~  
16 ~~amount is adjusted under section 77-2716.03. The standard deduction~~  
17 ~~shall be the smaller of the federal standard deduction actually~~  
18 ~~allowed or (i) for single taxpayers four thousand seven hundred fifty~~  
19 ~~dollars, (ii) for head of household taxpayers seven~~ five thousand  
20 five hundred dollars, (iii) for married filing jointly taxpayers  
21 ~~seven~~ eight thousand nine hundred fifty ~~dollars, and (iv) for married~~  
22 ~~filing separately taxpayers three~~ four thousand nine hundred seventy-  
23 ~~five~~ dollars. Taxpayers who are allowed additional federal standard  
24 ~~deduction amounts because of age or blindness shall be allowed an~~  
25 ~~increase in the Nebraska standard deduction for each additional~~

1 amount allowed on the federal return. The additional amounts shall be  
2 for married taxpayers, nine hundred fifty dollars, and for single or  
3 head of household taxpayers, one thousand one hundred fifty dollars.

4 (b) For tax years beginning or deemed to begin on or  
5 after January 1, 2007, under the Internal Revenue Code of 1986, as  
6 amended, every individual who did not itemize deductions on his or  
7 her federal return shall be allowed to subtract from federal adjusted  
8 gross income a standard deduction based on the filing status used on  
9 the federal return. The standard deduction shall be the smaller of  
10 the federal standard deduction actually allowed or (i) for single  
11 taxpayers three thousand dollars and (ii) for head of household  
12 taxpayers four thousand four hundred dollars. The standard deduction  
13 for married filing jointly taxpayers shall be double the standard  
14 deduction for single taxpayers, and for married filing separately  
15 taxpayers, the standard deduction shall be the same as single  
16 taxpayers. Taxpayers who are allowed additional federal standard  
17 deduction amounts because of age or blindness shall be allowed an  
18 increase in the Nebraska standard deduction for each additional  
19 amount allowed on the federal return. The additional amounts shall be  
20 for married taxpayers six hundred dollars and for single or head of  
21 household taxpayers seven hundred fifty dollars. The amounts in this  
22 subdivision will be indexed using 1987 as the base year.

23 (c) For tax years beginning or deemed to begin on or  
24 after January 1, 2007, the standard deduction amounts, including the  
25 additional standard deduction amounts, in this subsection shall be

1 ~~adjusted for inflation by the method provided in section 151 of the~~  
2 ~~Internal Revenue Code of 1986, as amended. If any amount is not a~~  
3 ~~multiple of fifty dollars, the amount shall be rounded to the next~~  
4 ~~lowest multiple of fifty dollars.~~

5 ~~(3) Every individual who itemized deductions on his or~~  
6 ~~her federal return shall be allowed to subtract from federal adjusted~~  
7 ~~gross income the greater of either the standard deduction allowed in~~  
8 ~~subsection (2) of this section or his or her federal itemized~~  
9 ~~deductions, except for the amount for state or local income taxes~~  
10 ~~included in federal itemized deductions before any federal~~  
11 ~~disallowance.~~

12 Sec. 6. Section 77-2717, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14 77-2717 (1)(a) The tax imposed on all resident estates  
15 and trusts shall be a percentage of the federal taxable income of  
16 such estates and trusts as modified in section 77-2716, plus a  
17 percentage of the federal alternative minimum tax and the federal tax  
18 on premature or lump-sum distributions from qualified retirement  
19 plans. The additional taxes shall be recomputed by (i) substituting  
20 Nebraska taxable income for federal taxable income, (ii) calculating  
21 what the federal alternative minimum tax would be on Nebraska taxable  
22 income and adjusting such calculations for any items which are  
23 reflected differently in the determination of federal taxable income,  
24 and (iii) applying the Nebraska rates ~~rate~~ to the result. The federal  
25 credit for prior year minimum tax, after the recomputations required

1 by the Nebraska Revenue Act of 1967, and the credits provided in the  
2 Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska  
3 Advantage Research and Development Act shall be allowed as a  
4 reduction in the income tax due. A refundable income tax credit shall  
5 be allowed for all resident estates and trusts under the Nebraska  
6 Advantage Microenterprise Tax Credit Act and the Nebraska Advantage  
7 Research and Development Act.

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

1 Advantage Microenterprise Tax Credit Act and the Nebraska Advantage  
2 Research and Development Act.

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

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

25           (4) If any beneficiary of such estate or trust is a

1 nonresident during any part of the estate's or trust's taxable year,  
2 he or she shall file a Nebraska income tax return which shall include  
3 (a) in Nebraska adjusted gross income that portion of the estate's or  
4 trust's Nebraska income, as determined under sections 77-2724 and  
5 77-2725, allocable to his or her interest in the estate or trust and  
6 (b) a reduction of the Nebraska tax liability by his or her  
7 proportionate share of the credits as provided in the Nebraska  
8 Advantage Microenterprise Tax Credit Act and the Nebraska Advantage  
9 Research and Development Act and shall execute and forward to the  
10 fiduciary, on or before the original due date of the Nebraska  
11 fiduciary return, an agreement which states that he or she will file  
12 a Nebraska income tax return and pay income tax on all income derived  
13 from or connected with sources in this state, and such agreement  
14 shall be attached to the Nebraska fiduciary return for such taxable  
15 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 77-2715.02-77-2701.01~~ multiplied by  
23 the nonresident beneficiary's share of the estate or trust income  
24 which was derived from or attributable to sources within this state.  
25 The 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. 7. Section 77-2727, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

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

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

9                   (3) If any partner of such partnership is a nonresident  
10 individual during any part of the partnership's reporting year, he or  
11 she shall file a Nebraska income tax return which shall include in  
12 Nebraska adjusted gross income that portion of the partnership's  
13 Nebraska income, as determined under the provisions of sections  
14 77-2728 and 77-2729, allocable to his or her interest in the  
15 partnership and shall execute and forward to the partnership, on or  
16 before the original due date of the Nebraska partnership return, an  
17 agreement which states that he or she will file a Nebraska income tax  
18 return and pay income tax on all income derived from or attributable  
19 to sources in this state, and such agreement shall be attached to the  
20 partnership's Nebraska return for such reporting year.

21                   (4)(a) Except as provided in subdivision (c) of this  
22 subsection, in the absence of the nonresident individual partner's  
23 executed agreement being attached to the Nebraska partnership return,  
24 the partnership shall remit a portion of such partner's income which  
25 was derived from or attributable to Nebraska sources with its

1 Nebraska return for the reporting year. The amount of remittance, in  
2 such instance, shall be the ~~highest~~ individual income tax rate  
3 ~~determined~~ under section ~~77-2715.02~~ 77-2701.01 multiplied by the  
4 nonresident individual partner's share of the partnership income  
5 which was derived from or attributable to sources within this state.

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

9 (c) Subdivision (a) of this subsection does not apply to  
10 a publicly traded partnership as defined by section 7704(b) of the  
11 Internal Revenue Code of 1986, as amended, that is treated as a  
12 partnership for the purposes of the code and that has agreed to file  
13 an annual information return with the Department of Revenue reporting  
14 the name, address, taxpayer identification number, and other  
15 information requested by the department of each unit holder with an  
16 income in the state in excess of five hundred dollars.

17 (5) The Tax Commissioner may allow a nonresident  
18 individual partner to not file a Nebraska income tax return if the  
19 nonresident individual partner's only source of Nebraska income was  
20 his or her share of the partnership's income which was derived from  
21 or attributable to sources within this state, the nonresident did not  
22 file an agreement to file a Nebraska income tax return, and the  
23 partnership has remitted the amount required by subsection (4) of  
24 this section on behalf of such nonresident individual partner. The  
25 amount remitted shall be retained in satisfaction of the Nebraska

1 income tax liability of the nonresident individual partner.

2 (6) For purposes of this section, any partner that is a  
3 grantor trust of a nonresident shall be disregarded and this section  
4 shall apply as though the nonresident grantor was the partner.

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

7 77-2734.01 (1) Residents of Nebraska who are shareholders  
8 of a small business corporation having an election in effect under  
9 subchapter S of the Internal Revenue Code or who are members of a  
10 limited liability company organized pursuant to the Limited Liability  
11 Company Act or the Nebraska Uniform Limited Liability Company Act  
12 shall include in their Nebraska taxable income, to the extent  
13 includable in federal gross income, their proportionate share of such  
14 corporation's or limited liability company's federal income adjusted  
15 pursuant to this section. Income or loss from such corporation or  
16 limited liability company conducting a business, trade, profession,  
17 or occupation shall be included in the Nebraska taxable income of a  
18 shareholder or member who is a resident of this state to the extent  
19 of such shareholder's or member's proportionate share of the net  
20 income or loss from the conduct of such business, trade, profession,  
21 or occupation within this state, determined under subsection (2) of  
22 this section. A resident of Nebraska shall include in Nebraska  
23 taxable income fair compensation for services rendered to such  
24 corporation or limited liability company. Compensation actually paid  
25 shall be presumed to be fair unless it is apparent to the Tax

1 Commissioner that such compensation is materially different from fair  
2 value for the services rendered or has been manipulated for tax  
3 avoidance purposes.

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

10 (a) If the small business corporation is a member of a  
11 unitary group, the small business corporation shall be deemed to be  
12 doing business within this state if any part of its income is derived  
13 from transactions with other members of the unitary group doing  
14 business within this state, and such corporation shall apportion its  
15 income by using the apportionment factor determined for the entire  
16 unitary group, including the small business corporation, under  
17 sections 77-2734.05 to 77-2734.15;

18 (b) If the small business corporation or limited  
19 liability company is not a member of a unitary group and is subject  
20 to tax in another state, it shall apportion its income under sections  
21 77-2734.05 to 77-2734.15; and

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

25 (3) Nonresidents of Nebraska who are shareholders of such

1 corporations or members of such limited liability companies shall  
2 file a Nebraska income tax return and shall include in Nebraska  
3 adjusted gross income their proportionate share of the corporation's  
4 or limited liability company's Nebraska income as determined under  
5 subsection (2) of this section.

6 (4) The nonresident shareholder or member shall execute  
7 and forward to the corporation or limited liability company before  
8 the filing of the corporation's or limited liability company's return  
9 an agreement which states he or she will file a Nebraska income tax  
10 return and pay the tax on the income derived from or connected with  
11 sources in this state, and such agreement shall be attached to the  
12 corporation's or limited liability company's Nebraska return for such  
13 taxable year.

14 (5) In the absence of the nonresident shareholder's or  
15 member's executed agreement being attached to the Nebraska return,  
16 the corporation or limited liability company shall remit with the  
17 return an amount equal to the ~~highest~~ individual income tax rate  
18 ~~determined~~ under section ~~77-2715.02~~ 77-2701.01 multiplied by the  
19 nonresident shareholder's or member's share of the corporation's or  
20 limited liability company's income which was derived from or  
21 attributable to this state. The amount remitted shall be allowed as a  
22 credit against the Nebraska income tax liability of the shareholder  
23 or member.

24 (6) The Tax Commissioner may allow a nonresident  
25 individual shareholder or member to not file a Nebraska income tax

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

12 (7) A small business corporation or limited liability  
13 company return shall be filed only if one or more of the shareholders  
14 of the corporation or members of the limited liability company are  
15 not residents of the State of Nebraska or if such corporation or  
16 limited liability company has income derived from sources outside  
17 this state.

18 (8) For purposes of this section, any shareholder or  
19 member of the corporation or limited liability company that is a  
20 grantor trust of a nonresident shall be disregarded and this section  
21 shall apply as though the nonresident grantor was the shareholder or  
22 member.

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

25 77-2734.02 (1) Except as provided in subsection (2) of

1 this section, a tax is hereby imposed for each taxable year on the  
 2 taxable income of every corporate taxpayer that is doing business in  
 3 this state at a rate equal to:

4	<u>Taxable years beginning</u>	<u>but before</u>	<u>Rate</u>
5	<u>on or after</u>		
6	<u>January 1, 2014</u>	<u>January 1, 2015</u>	<u>4.5%</u>
7	<u>January 1, 2015</u>	<u>January 1, 2016</u>	<u>4.4%</u>
8	<u>January 1, 2016</u>	<u>January 1, 2017</u>	<u>4.3%</u>
9	<u>January 1, 2017</u>	<u>January 1, 2018</u>	<u>4.2%</u>
10	<u>January 1, 2018</u>	<u>January 1, 2019</u>	<u>4.1%</u>
11	<u>January 1, 2019</u>	<u>January 1, 2020</u>	<u>4.0%</u>
12	<u>January 1, 2020</u>	<u>January 1, 2021</u>	<u>3.9%</u>
13	<u>January 1, 2021</u>	<u>January 1, 2022</u>	<u>3.8%</u>
14	<u>January 1, 2022</u>	<u>January 1, 2023</u>	<u>3.7%</u>
15	<u>January 1, 2023</u>	<u>January 1, 2024</u>	<u>3.6%</u>
16	<u>January 1, 2024</u>		<u>3.5%</u>

17 ~~one hundred fifty and eight tenths percent of the primary~~  
 18 ~~rate imposed on individuals under section 77-2701.01 on the first one~~  
 19 ~~hundred thousand dollars of taxable income and at the rate of two~~  
 20 ~~hundred eleven percent of such rate on all taxable income in excess~~  
 21 ~~of one hundred thousand dollars. The resultant rates shall be rounded~~  
 22 ~~to the nearest one hundredth of one percent.~~

23 For corporate taxpayers with a fiscal year that does not

1 coincide with the calendar year, the ~~individual~~ rate used for this  
2 subsection shall be the rate in effect on the first day, or the day  
3 deemed to be the first day, of the taxable year.

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

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

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

19 Sec. 10. Section 77-3804, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 77-3804 (1) The limitation rate shall be forty-eight and  
22 eight-tenths percent of the ~~maximum~~ corporate income tax rate in  
23 effect for the taxable year, as prescribed in section 77-2734.02,  
24 rounded to the nearest hundredth of one percent.

25 (2) The limitation amount shall be the product of the net

1 financial income of the financial institution multiplied by the  
2 limitation rate.

3           Sec. 11. This act is operative for all taxable years  
4 beginning or deemed to begin on or after January 1, 2014, under the  
5 Internal Revenue Code of 1986, as amended.

6           Sec. 12. Original sections 77-2701.01, 77-2715,  
7 77-2715.01, 77-2715.07, 77-2716.01, 77-2717, 77-2727, 77-2734.02, and  
8 77-3804, Reissue Revised Statutes of Nebraska, and section  
9 77-2734.01, Revised Statutes Cumulative Supplement, 2010, are  
10 repealed.

11           Sec. 13. The following sections are outright repealed:  
12 Sections 77-2715.02 and 77-2716.03, Reissue Revised Statutes of  
13 Nebraska.