

E AND R AMENDMENTS TO LB 308

Introduced by Murante, 49, Chairman Enrollment and Review

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

3           Section 1. Section 77-2715, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           77-2715 (1) A tax is hereby imposed for each taxable  
6 year on the entire income of every resident individual and  
7 on the income of every nonresident individual and partial-year  
8 resident individual which is derived from sources within this  
9 state, except that any individual who has additions to adjusted  
10 gross income pursuant to section 77-2716 of less than five thousand  
11 dollars shall not have an individual income tax liability after  
12 nonrefundable credits under the Nebraska Revenue Act of 1967 that  
13 exceeds his or her individual income tax liability before credits  
14 under the Internal Revenue Code of 1986.

15           (2) (a) The For taxable years beginning or deemed to begin  
16 before January 1, 2014, the tax for each resident individual shall  
17 be a percentage of such individual's federal adjusted gross income  
18 as modified in sections 77-2716 and 77-2716.01, plus a percentage  
19 of the federal alternative minimum tax and the federal tax on  
20 premature or lump-sum distributions from qualified retirement  
21 plans. The additional taxes shall be recomputed by ~~(a)~~ (i)  
22 substituting Nebraska taxable income for federal taxable income,  
23 ~~(b)~~ (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 ~~(e)~~ (iii) applying Nebraska rates to  
4 the result. The federal credit for prior year minimum tax, after  
5 the recomputations required by the act, shall be allowed as a  
6 reduction in the income tax due.

7 (b) For taxable years beginning or deemed to begin on  
8 or after January 1, 2014, the tax for each resident individual  
9 shall be a percentage of such individual's federal adjusted  
10 gross income as modified in sections 77-2716 and 77-2716.01,  
11 plus a percentage of the federal tax on premature or lump-sum  
12 distributions from qualified retirement plans. The additional taxes  
13 shall be recomputed by substituting Nebraska taxable income for  
14 federal taxable income and applying Nebraska rates to the result.

15 (3) The tax for each nonresident individual and  
16 partial-year resident individual shall be the portion of the tax  
17 imposed on resident individuals which is attributable to the  
18 income derived from sources within this state. The tax which is  
19 attributable to income derived from sources within this state shall  
20 be determined by subtracting from the liability to this state for  
21 a resident individual with the same total income the credit for  
22 personal exemptions and multiplying the result by a fraction, the  
23 numerator of which is the nonresident individual's or partial-year  
24 resident individual's Nebraska adjusted gross income as determined  
25 by section 77-2733 or 77-2733.01 and the denominator of which  
26 is his or her total federal adjusted gross income, after first  
27 adjusting each by the amounts provided in section 77-2716. If

1 this determination attributes more or less tax than is reasonably  
2 attributable to income derived from sources within this state, the  
3 taxpayer may petition for or the Tax Commissioner may require the  
4 employment of any other method to attribute an amount of tax which  
5 is reasonable and equitable in the circumstances.

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

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

13 Sec. 2. Section 77-2717, Revised Statutes Cumulative  
14 Supplement, 2012, is amended to read:

15 77-2717 (1)(a) ~~The~~ (i) For taxable years beginning or  
16 deemed to begin before January 1, 2014, the tax imposed on all  
17 resident estates and trusts shall be a percentage of the federal  
18 taxable income of such estates and trusts as modified in section  
19 77-2716, plus a percentage of the federal alternative minimum  
20 tax and the federal tax on premature or lump-sum distributions  
21 from qualified retirement plans. The additional taxes shall be  
22 recomputed by ~~(i)~~ (A) substituting Nebraska taxable income for  
23 federal taxable income, ~~(ii)~~ (B) calculating what the federal  
24 alternative minimum tax would be on Nebraska taxable income and  
25 adjusting such calculations for any items which are reflected  
26 differently in the determination of federal taxable income, and  
27 ~~(iii)~~ (C) applying Nebraska rates to the result. The federal credit

1 for prior year minimum tax, after the recomputations required  
2 by the Nebraska Revenue Act of 1967, and the credits provided  
3 in the Nebraska Advantage Microenterprise Tax Credit Act and the  
4 Nebraska Advantage Research and Development Act shall be allowed  
5 as a reduction in the income tax due. A refundable income tax  
6 credit shall be allowed for all resident estates and trusts  
7 under the Angel Investment Tax Credit Act, the Nebraska Advantage  
8 Microenterprise Tax Credit Act, and the Nebraska Advantage Research  
9 and Development Act. A nonrefundable income tax credit shall be  
10 allowed for all resident estates and trusts as provided in the New  
11 Markets Job Growth Investment Act.

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

1 provided in the New Markets Job Growth Investment Act.

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

25           (2) In all instances wherein a fiduciary income tax  
26 return is required under the provisions of the Internal Revenue  
27 Code, a Nebraska fiduciary return shall be filed, except that a

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

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

23           (4) If any beneficiary of such estate or trust is a  
24 nonresident during any part of the estate's or trust's taxable  
25 year, he or she shall file a Nebraska income tax return which shall  
26 include (a) in Nebraska adjusted gross income that portion of the  
27 estate's or trust's Nebraska income, as determined under sections

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

13 (5) In the absence of the nonresident beneficiary's  
14 executed agreement being attached to the Nebraska fiduciary return,  
15 the estate or trust shall remit a portion of such beneficiary's  
16 income which was derived from or attributable to Nebraska sources  
17 with its Nebraska return for the taxable year. For taxable years  
18 beginning or deemed to begin before January 1, 2013, the amount  
19 of remittance, in such instance, shall be the highest individual  
20 income tax rate determined under section 77-2715.02 multiplied by  
21 the nonresident beneficiary's share of the estate or trust income  
22 which was derived from or attributable to sources within this  
23 state. For taxable years beginning or deemed to begin on or after  
24 January 1, 2013, the amount of remittance, in such instance, shall  
25 be the highest individual income tax rate determined under section  
26 77-2715.03 multiplied by the nonresident beneficiary's share of the  
27 estate or trust income which was derived from or attributable to

1 sources within this state. The amount remitted shall be allowed  
2 as a credit against the Nebraska income tax liability of the  
3 beneficiary.

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

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

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

26 Sec. 3. Section 77-2734.07, Reissue Revised Statutes of  
27 Nebraska, is amended to read:



1                   77-2734.07 (1) There shall be added to federal taxable  
2 income the amount of any federal deduction because of a  
3 carryforward of a net operating loss or any capital loss.

4                   (2) There shall be allowed a deduction for a carryforward  
5 of a net operating loss or capital loss that is connected with  
6 operations in Nebraska. For a net operating loss or capital loss  
7 incurred in taxable years beginning or deemed to begin on or after  
8 January 1, 1987, and before January 1, 2014, the deduction shall  
9 be allowed only for each of the five taxable years succeeding the  
10 year of the loss. For a net operating loss incurred in taxable  
11 years beginning or deemed to begin on or after January 1, 2014,  
12 the deduction shall be allowed only for each of the twenty taxable  
13 years succeeding the year of the loss. For a capital loss incurred  
14 in taxable years beginning or deemed to begin on or after January  
15 1, 2014, the deduction shall be allowed only for each of the five  
16 taxable years succeeding the year of the loss.

17                   (3) Except as otherwise provided in this section, there  
18 shall be allowed a carryback of a net operating loss or a capital  
19 loss that is connected with operations in Nebraska. For a net  
20 operating loss or capital loss incurred in taxable years beginning  
21 or deemed to begin on or after January 1, 1987, no such carryback  
22 shall be allowed.

23                   (4) The amounts in subsections (2) and (3) of this  
24 section shall be computed pursuant to rules and regulations  
25 adopted and promulgated by the Tax Commissioner. Such regulations  
26 shall be in accord with the laws of the United States regarding  
27 carryforwards and carrybacks.

1                   Sec. 4. Original sections 77-2715 and 77-2734.07, Reissue  
2 Revised Statutes of Nebraska, and section 77-2717, Revised Statutes  
3 Cumulative Supplement, 2012, are repealed.

4                   2. On page 1, lines 1 and 2, strike "section 77-2715" and  
5 insert "sections 77-2715 and 77-2734.07"; and in line 5 after the  
6 semicolon insert "to change provisions relating to deductions for  
7 net operating losses and capital losses;".