

AMENDMENTS TO LB 235

(Amendments to E & R amendments, ER8140)

Introduced by Langemeier, 23.

1           1. Strike section 4 and insert the following new  
2 sections:

3           Sec. 5. Section 77-2715.07, Revised Statutes Supplement,  
4 2007, is amended to read:

5           77-2715.07 (1) There shall be allowed to qualified  
6 resident individuals as a nonrefundable credit against the income  
7 tax imposed by the Nebraska Revenue Act of 1967:

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

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

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

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

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

8 (c) A refundable credit for individuals who qualify for  
9 an income tax credit as an owner of agricultural assets under the  
10 Beginning Farmer Tax Credit Act for all taxable years beginning or  
11 deemed to begin on or after January 1, 2001, under the Internal  
12 Revenue Code of 1986, as amended; and a refundable credit as  
13 provided in section 77-5209.01 for individuals who qualify for an  
14 income tax credit as a qualified beginning farmer or livestock  
15 producer under the Beginning Farmer Tax Credit Act for all taxable  
16 years beginning or deemed to begin on or after January 1, 2006,  
17 under the Internal Revenue Code of 1986, as amended;

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

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

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

1           (a) A credit for personal exemptions allowed under  
2 section 77-2716.01;

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

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

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

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

17           (b) A credit to all estates and trusts for contributions  
18 to certified community betterment programs as provided in the  
19 Community Development Assistance Act.

20           (5) (a) For all taxable years beginning on or after  
21 January 1, 2007, and before January 1, 2009, under the Internal  
22 Revenue Code of 1986, as amended, there shall be allowed to each  
23 partner, shareholder, member, or beneficiary of a partnership,  
24 subchapter S corporation, limited liability company, or estate or  
25 trust a nonrefundable credit against the income tax imposed by  
26 the Nebraska Revenue Act of 1967 equal to fifty percent of the  
27 partner's, shareholder's, member's, or beneficiary's portion of the

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

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

12 (c) Each partner, shareholder, member, or beneficiary  
13 shall report his or her share of the credit in the same manner  
14 and proportion as he or she reports the partnership, subchapter S  
15 corporation, limited liability company, or estate or trust income.  
16 If any partner, shareholder, member, or beneficiary cannot fully  
17 utilize the credit for that year, the credit may not be carried  
18 forward or back.

19 (6) There shall be allowed to individuals as a  
20 nonrefundable credit against the income tax imposed by the Nebraska  
21 Revenue Act of 1967 a credit as provided in the Nebraska Advantage  
22 Film Production Incentive Act.

23 Sec. 6. Section 77-2717, Revised Statutes Supplement,  
24 2007, is amended to read:

25 77-2717 (1)(a) The tax imposed on all resident estates  
26 and trusts shall be a percentage of the federal taxable income  
27 of such estates and trusts as modified in section 77-2716, plus

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

20 (b) The tax imposed on all nonresident estates and trusts  
21 shall be the portion of the tax imposed on resident estates and  
22 trusts which is attributable to the income derived from sources  
23 within this state. The tax which is attributable to income derived  
24 from sources within this state shall be determined by multiplying  
25 the liability to this state for a resident estate or trust with  
26 the same total income by a fraction, the numerator of which is  
27 the nonresident estate's or trust's Nebraska income as determined

1 by sections 77-2724 and 77-2725 and the denominator of which is  
2 its total federal income after first adjusting each by the amounts  
3 provided in section 77-2716. The federal credit for prior year  
4 minimum tax, after the recomputations required by the Nebraska  
5 Revenue Act of 1967, reduced by the percentage of the total income  
6 which is attributable to income from sources outside this state,  
7 and the credits provided in the Nebraska Advantage Microenterprise  
8 Tax Credit Act and the Nebraska Advantage Research and Development  
9 Act shall be allowed as a reduction in the income tax due. A  
10 refundable income tax credit shall be allowed for all nonresident  
11 estates and trusts under the Nebraska Advantage Microenterprise  
12 Tax Credit Act and the Nebraska Advantage Research and Development  
13 Act. A nonrefundable income tax credit shall be allowed for all  
14 nonresident estates and trusts under the Nebraska Advantage Film  
15 Production Incentive Act.

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

1 taxable to such beneficiaries.

2 (3) The beneficiaries of such estate or trust who are  
3 residents of this state shall include in their income their  
4 proportionate share of such estate's or trust's federal income and  
5 shall reduce their Nebraska tax liability by their proportionate  
6 share of the credits as provided in the Nebraska Advantage Film  
7 Production Incentive Act, the Nebraska Advantage Microenterprise  
8 Tax Credit Act, and the Nebraska Advantage Research and Development  
9 Act. There shall be allowed to a beneficiary a refundable income  
10 tax credit under the Beginning Farmer Tax Credit Act for all  
11 taxable years beginning or deemed to begin on or after January 1,  
12 2001, under the Internal Revenue Code of 1986, as amended.

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

1 and such agreement shall be attached to the Nebraska fiduciary  
2 return for such taxable year.

3 (5) In the absence of the nonresident beneficiary's  
4 executed agreement being attached to the Nebraska fiduciary return,  
5 the estate or trust shall remit a portion of such beneficiary's  
6 income which was derived from or attributable to Nebraska sources  
7 with its Nebraska return for the taxable year. The amount of  
8 remittance, in such instance, shall be the highest individual  
9 income tax rate determined under section 77-2715.02 multiplied by  
10 the nonresident beneficiary's share of the estate or trust income  
11 which was derived from or attributable to sources within this  
12 state. The amount remitted shall be allowed as a credit against the  
13 Nebraska income tax liability of the beneficiary.

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

24 (7) For purposes of this section, unless the context  
25 otherwise requires, simple trust shall mean any trust instrument  
26 which (a) requires that all income shall be distributed currently  
27 to the beneficiaries, (b) does not allow amounts to be paid,

1 permanently set aside, or used in the tax year for charitable  
2 purposes, and (c) does not distribute amounts allocated in the  
3 corpus of the trust. Any trust which does not qualify as a simple  
4 trust shall be deemed a complex trust.

5           Sec. 7. Section 77-2734.03, Revised Statutes Supplement,  
6 2007, is amended to read:

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

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

24           (c) For taxable years commencing or deemed to commence  
25 prior to, on, or after January 1, 1998, any insurer paying a tax on  
26 premiums and assessments pursuant to section 77-908 or 81-523 shall  
27 be credited, in the computation of the tax due under the Nebraska

1 Revenue Act of 1967, with the amount paid during the taxable year  
2 as assessments allowed as an offset against premium and related  
3 retaliatory tax liability pursuant to section 44-4233.

4 (2) There shall be allowed to corporate taxpayers a  
5 tax credit for contributions to community betterment programs as  
6 provided in the Community Development Assistance Act.

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

12 (4) The changes made to this section by Laws 2004, LB  
13 983, apply to motor fuels purchased during any tax year ending  
14 or deemed to end on or after January 1, 2005, under the Internal  
15 Revenue Code of 1986, as amended.

16 (5) There shall be allowed to corporate taxpayers  
17 refundable income tax credits under the Nebraska Advantage  
18 Microenterprise Tax Credit Act and the Nebraska Advantage Research  
19 and Development Act.

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

23 (7) There shall be allowed to corporate taxpayers a  
24 nonrefundable income tax credit as provided in the Nebraska  
25 Advantage Film Production Incentive Act.

26 Sec. 8. This act becomes operative for all taxable years  
27 beginning or deemed to begin on or after January 1, 2008, under the

1 Internal Revenue Code of 1986, as amended.

2           Sec. 9. Original sections 77-2715.07, 77-2717, and  
3 77-2734.03, Revised Statutes Supplement, 2007, are repealed.

4           2. On page 1, line 3, strike "5" and insert "4".

5           3. On page 2, line 15, strike "A rebate" and insert "A  
6 nonrefundable income tax credit"; in line 18 strike "paid" and  
7 insert "available"; and in line 22 strike "rebate paid" and insert  
8 "income tax credit available".

9           4. On page 3, line 5, strike "rebate paid" and insert  
10 "income tax credit available"; in line 8 strike "rebate" and insert  
11 "tax credit"; and in line 10 strike "a rebate payment" and insert  
12 "an income tax credit".

13           5. On page 4, lines 10 and 15, strike "rebate" and  
14 insert "income tax credit"; in line 18 strike "rebate" and insert  
15 "income tax credits" and strike "State Treasurer" and insert "Tax  
16 Commissioner"; and strike beginning with "The" in line 19 through  
17 line 27 and insert "The amount of income tax credits approved by  
18 the office for any tax year shall not exceed five million dollars.  
19 A production company may carry forward unused income tax credits  
20 for three tax years.".

21           6. On page 5, strike line 1.

22           7. Renumber the remaining section accordingly.