

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 405

Introduced by McCoy, 39; Ashford, 20; at the request of the
Governor.

Read first time January 22, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 2-2701, 3-149, 77-2701.24, 77-2701.32, 77-2701.33,
3 77-2701.34, 77-2701.35, 77-2701.37, 77-2701.42,
4 77-2701.48, 77-2704.41, 77-2704.46, 77-2706, 77-2715,
5 77-2753, 77-2754, 77-2755, 77-2761, 77-2768, 77-2769,
6 77-2769.01, 77-2770.01, 77-2775, 77-27,188, 77-27,188.01,
7 77-3802, 77-4106, 77-5209.01, 77-5211, 77-5531, 77-5708,
8 77-5804, 77-5905, and 77-5906, Reissue Revised Statutes
9 of Nebraska, and sections 77-382, 77-2701, 77-2701.01,
10 77-2701.16, 77-2704.12, 77-2708, 77-2715.03, 77-2715.07,
11 77-2717, 77-2727, 77-2734.01, 77-2734.02, 77-2734.03,
12 77-2756, 77-5723, 77-5725, 77-5726, 77-5727, and 77-5735,
13 Revised Statutes Cumulative Supplement, 2012; to change
14 and eliminate sales tax provisions; to eliminate
15 individual and corporate income taxes and the franchise
16 tax; to change provisions relating to withholding and

1 income tax credits; to change the Nebraska Advantage Act;
2 to harmonize provisions; to provide operative dates; to
3 repeal the original sections; and to outright repeal
4 sections 77-2701.46, 77-2701.47, 77-2704.03, 77-2704.04,
5 77-2704.08, 77-2704.09, 77-2704.11, 77-2704.13,
6 77-2704.22, 77-2704.23, 77-2704.26, 77-2704.27,
7 77-2704.40, 77-2704.43, 77-2704.45, 77-2704.47,
8 77-2704.60, and 77-2708.01, Reissue Revised Statutes of
9 Nebraska, and sections 77-2701.54, 77-2704.36,
10 77-2704.50, 77-2704.61, and 77-2704.62, Revised Statutes
11 Cumulative Supplement, 2012.
12 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-2701, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 2-2701 (1) No person shall be permitted to sell or
4 dispose of any current tractor model of one hundred or more
5 horsepower in the State of Nebraska without first having (a) made
6 application for a permit and obtained a permit to sell the tractor
7 model, (b) the model tested by the University of Nebraska onsite or
8 offsite or by any Organization for Economic Cooperation and
9 Development test station, and (c) the model passed upon by the board.

10 (2) A person may obtain a permit to sell or dispose of a
11 current tractor model of less than one hundred horsepower by meeting
12 the permit requirements of sections 2-2701 to 2-2711. ~~A purchaser of
13 a current tractor model is not eligible to claim the exemption from
14 sales and use tax for agricultural machinery and equipment under
15 section 77-2704.36 unless the current tractor model has been
16 permitted for sale pursuant to sections 2-2701 to 2-2711.~~

17 (3) Each and every tractor model presented for testing
18 shall be a stock model and shall not be equipped with any special
19 accessory unless regularly supplied to the trade. Any tractor model
20 not complying with this section shall not be tested under sections
21 2-2701 to 2-2711. Applications shall be made to the board and shall
22 be accompanied by specifications of the tractor model required by the
23 board and by the applicable fees specified in sections 2-2705 and
24 2-2705.01.

25 (4) If an official test application, with the required

1 specifications and fees, is submitted to any Organization for
2 Economic Cooperation and Development test station or to the
3 University of Nebraska and an application for a temporary permit and
4 the fee prescribed in section 2-2705.01 are submitted, the
5 department, with the approval of the board, may issue a temporary
6 permit for the sale of the tractor model specified in the official
7 test application. The date on which the temporary permit terminates
8 shall be fixed by the board. All temporary permits shall be
9 conditioned upon such tractor model being tested at a mutually
10 agreed-upon date, and the person to whom a temporary permit has been
11 issued shall submit a tractor model for testing which conforms to the
12 specifications filed with the official test application. Such tractor
13 model shall be delivered for testing at the mutually agreed-upon
14 date. Upon failure so to do, all such fees deposited by such person
15 shall be forfeited to the University of Nebraska Tractor Test Cash
16 Fund, except that the fee imposed in section 2-2705.01 shall be
17 deposited in and forfeited to the Tractor Permit Cash Fund, and in
18 addition such person shall not be issued any temporary permit for a
19 period of five years from the date such tractor was to be delivered
20 for testing and until such person meets the obligations required
21 under subsection (5) of this section to the department's
22 satisfaction.

23 (5) All sales of tractors upon which a temporary permit
24 has been issued shall be made subject to the final official test and
25 approval of the tractor model as follows:

1 (a) If a tractor model upon which a temporary permit has
2 been issued was not submitted for the official test and approval on
3 the mutually agreed-upon date, the person to whom the temporary
4 permit was issued shall repurchase any such tractor sold in Nebraska
5 under the temporary permit. A claim by a purchaser under this
6 subdivision shall be brought within two years after the date of the
7 expiration of the temporary permit; and

8 (b) If a tractor model upon which a temporary permit has
9 been issued fails in the official test to meet the specifications of
10 the tractor model which were filed with the application and fees, the
11 person to whom the temporary permit was issued shall send a notice,
12 as approved by the department, to any person in Nebraska who has
13 purchased a tractor sold under the temporary permit. The person to
14 whom the temporary permit was issued shall either modify the tractor
15 to meet the specifications filed with the board or remedy to the
16 satisfaction of the purchaser any injury incurred by the purchaser
17 which was caused by the failure of the tractor to meet the
18 specifications claimed. Such person shall be prohibited from
19 modifying sales literature, advertisement claims, or specifications
20 of the tractor to avoid such notice.

21 Sec. 2. Section 3-149, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 3-149 The suppliers, distributors, wholesalers, and
24 importers defined in Chapter 66, article 4, shall collect the tax as
25 prescribed in section 3-148, keep an account thereof separately from

1 other fuel tax, and remit the tax collected accordingly to the Tax
2 Commissioner. The Tax Commissioner shall remit the tax to the State
3 Treasurer in the same manner as is provided by law for the collection
4 and remittance of motor vehicle fuel tax. ~~No other or different tax~~
5 ~~shall be imposed for fuel bought for and used in aircraft.~~ Such tax
6 shall be used for the purposes set forth in the State Aeronautics
7 Department Act. The penalty for violation of the provisions of this
8 section relating to the collection and remittance of the tax shall be
9 the same as set forth for the violation of the law with reference to
10 the motor fuel tax contained in Chapter 66, article 7, and the right
11 of enforcement and the penalties shall be likewise applicable as set
12 forth therein.

13 Sec. 3. Section 77-382, Revised Statutes Cumulative
14 Supplement, 2012, is amended to read:

15 77-382 (1) The department shall prepare a tax expenditure
16 report describing (a) the basic provisions of the Nebraska tax laws,
17 (b) the actual or estimated revenue loss caused by the exemptions,
18 deductions, exclusions, deferrals, credits, and preferential rates in
19 effect on July 1 of each year and allowed under Nebraska's tax
20 structure and in the property tax, and (c) the elements which make up
21 the tax base for state and local income, including income, sales and
22 use, property, and miscellaneous taxes.

23 (2) The department shall review the major tax exemptions
24 for which state general funds are used to reduce the impact of
25 revenue lost due to a tax expenditure. The report shall indicate an

1 estimate of the amount of the reduction in revenue resulting from the
2 operation of all tax expenditures. ~~The report shall list each tax~~
3 ~~expenditure relating to sales and use tax under the following~~
4 ~~categories:~~

5 ~~(a) Agriculture, which shall include a separate listing~~
6 ~~for the following items: Agricultural machinery; agricultural~~
7 ~~chemicals; seeds sold to commercial producers; water for irrigation~~
8 ~~and manufacturing; commercial artificial insemination; mineral oil as~~
9 ~~dust suppressant; animal grooming; oxygen for use in aquaculture;~~
10 ~~animal life whose products constitute food for human consumption; and~~
11 ~~grains;~~

12 ~~(b) Business across state lines, which shall include a~~
13 ~~separate listing for the following items: Property shipped out of-~~
14 ~~state; fabrication labor for items to be shipped out of state;~~
15 ~~property to be transported out of state; property purchased in other~~
16 ~~states to be used in Nebraska; aircraft delivery to an out of state~~
17 ~~resident or business; state reciprocal agreements for industrial~~
18 ~~machinery; and property taxed in another state;~~

19 ~~(c) Common carrier and logistics, which shall include a~~
20 ~~separate listing for the following items: Railroad rolling stock and~~
21 ~~repair parts and services; common or contract carriers and repair~~
22 ~~parts and services; common or contract carrier accessories; and~~
23 ~~common or contract carrier safety equipment;~~

24 ~~(d) Consumer goods, which shall include a separate~~
25 ~~listing for the following items: Motor vehicles and motorboat trade-~~

1 ~~ins; merchandise trade ins; certain medical equipment and medicine;~~
2 ~~newspapers; laundromats; telefloral deliveries; motor vehicle~~
3 ~~discounts for the disabled; and political campaign fundraisers;~~

4 ~~(e) Energy, which shall include a separate listing for~~
5 ~~the following items: Motor fuels; energy used in industry; energy~~
6 ~~used in agriculture; aviation fuel; and minerals, oil, and gas~~
7 ~~severed from real property;~~

8 ~~(f) Food, which shall include a separate listing for the~~
9 ~~following items: Food for home consumption; Supplemental Nutrition~~
10 ~~Assistance Program; school lunches; meals sold by hospitals; meals~~
11 ~~sold by institutions at a flat rate; food for the elderly,~~
12 ~~handicapped, and Supplemental Security Income recipients; and meals~~
13 ~~sold by churches;~~

14 ~~(g) General business, which shall include a separate~~
15 ~~listing for the following items: Component and ingredient parts;~~
16 ~~manufacturing machinery; containers; film rentals; molds and dies;~~
17 ~~syndicated programming; intercompany sales; intercompany leases; sale~~
18 ~~of a business or farm machinery; and transfer of property in a change~~
19 ~~of business ownership;~~

20 ~~(h) Lodging and shelter, which shall include a separate~~
21 ~~listing for the following item: Room rentals by certain institutions;~~

22 ~~(i) Miscellaneous, which shall include a separate listing~~
23 ~~for the following items: Cash discounts and coupons; separately~~
24 ~~stated finance charges; casual sales; lease to purchase agreements;~~
25 ~~and separately stated taxes;~~

1 ~~(j) Nonprofits, governments, and exempt entities, which~~
2 ~~shall include a separate listing for the following items: Purchases~~
3 ~~by political subdivisions of the state; purchases by churches and~~
4 ~~nonprofit colleges and medical facilities; purchasing agents for~~
5 ~~public real estate construction improvements; contractor as~~
6 ~~purchasing agent for public agencies; Nebraska lottery; admissions to~~
7 ~~school events; sales on Native American Indian reservations; school-~~
8 ~~supporting fundraisers; fine art purchases by a museum; purchases by~~
9 ~~the Nebraska State Fair Board; purchases by the Nebraska Investment~~
10 ~~Finance Authority and licensees of the State Racing Commission;~~
11 ~~purchases by the United States Government; public records; and sales~~
12 ~~by religious organizations;~~

13 ~~(k) Recent sales tax expenditures, which shall include a~~
14 ~~separate listing for each sales tax expenditure created by statute or~~
15 ~~rule and regulation after July 19, 2012; and~~

16 ~~(l) Telecommunications, which shall include a separate~~
17 ~~listing for the following items: Telecommunications access charges;~~
18 ~~prepaid calling arrangements; conference bridging services; and~~
19 ~~nonvoice data services.~~

20 ~~(3) The report shall make recommendations relating to the~~
21 ~~elimination, in whole or in part, of particular tax expenditures or~~
22 ~~to the limiting of the duration of particular tax expenditures to a~~
23 ~~fixed number of years.~~

24 ~~(4)-(3)~~ It is the intent of the Legislature that nothing
25 in the Tax Expenditure Reporting Act shall cause the valuation or

1 assessment of any property exempt from taxation on the basis of its
2 use exclusively for religious, educational, or charitable purposes.

3 Sec. 4. Section 77-2701, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to
6 77-27,236 and section 40 of this act shall be known and may be cited
7 as the Nebraska Revenue Act of 1967.

8 Sec. 5. Section 77-2701.01, Revised Statutes Cumulative
9 Supplement, 2012, is amended to read:

10 77-2701.01 Pursuant to section 77-2715.01, for all
11 taxable years beginning or deemed to begin on or after January 1,
12 1990, and before January 1, 1991, under the Internal Revenue Code of
13 1986, as amended, the rate of the income tax levied pursuant to
14 section 77-2715 shall be three and forty-three-hundredths percent.
15 Pursuant to section 77-2715.01, for all taxable years beginning or
16 deemed to begin on or after January 1, 1991, and before January 1,
17 2013, under the Internal Revenue Code of 1986, as amended, the rate
18 of the income tax levied pursuant to section 77-2715 shall be three
19 and seventy-hundredths percent. Pursuant to section 77-2715.01, for
20 all taxable years beginning or deemed to begin on or after January 1,
21 2013, and before January 1, 2014, under the Internal Revenue Code of
22 1986, as amended, the rates of the income tax levied pursuant to
23 section 77-2715 shall be as provided in section 77-2715.03.

24 Sec. 6. Section 77-2701.16, Revised Statutes Cumulative
25 Supplement, 2012, is amended to read:

1 77-2701.16 (1) Gross receipts means the total amount of
2 the sale or lease or rental price, as the case may be, of the retail
3 sales of retailers.

4 (2) Gross receipts of every person engaged as a public
5 utility specified in this subsection, as a community antenna
6 television service operator, or as a satellite service operator or
7 any person involved in connecting and installing services defined in
8 subdivision (2)(a), (b), or (d) of this section means:

9 (a)(i) In the furnishing of telephone communication
10 service, other than mobile telecommunications service as described in
11 section 77-2703.04, the gross income received from furnishing
12 ancillary services, except for conference bridging services, and
13 intrastate telecommunications services, except for value-added,
14 nonvoice data service; and

15 (ii) In the furnishing of mobile telecommunications
16 service as described in section 77-2703.04, the gross income received
17 from furnishing mobile telecommunications service that originates and
18 terminates in the same state to a customer with a place of primary
19 use in Nebraska;

20 (b) In the furnishing of telegraph service, the gross
21 income received from the furnishing of intrastate telegraph services;

22 (c) In the furnishing of gas, electricity, sewer, and
23 water service, the gross income received from the furnishing of such
24 services upon billings or statements rendered to consumers for such
25 utility services;

1 (d) In the furnishing of community antenna television
2 service or satellite service, the gross income received from the
3 furnishing of such community antenna television service as regulated
4 under sections 18-2201 to 18-2205 or 23-383 to 23-388 or satellite
5 service; and

6 (e) The gross income received from the provision,
7 installation, construction, servicing, or removal of property used in
8 conjunction with the furnishing, installing, or connecting of any
9 public utility services specified in subdivision (2)(a) or (b) of
10 this section or community antenna television service or satellite
11 service specified in subdivision (2)(d) of this section, except when
12 acting as a subcontractor for a public utility, this subdivision does
13 not apply to the gross income received by a contractor electing to be
14 treated as a consumer of building materials under subdivision (2) or
15 (3) of section 77-2701.10 for any such services performed on the
16 customer's side of the utility demarcation point.

17 (3) Gross receipts of every person engaged in selling,
18 leasing, or otherwise providing intellectual or entertainment
19 property means:

20 (a) In the furnishing of computer software, the gross
21 income received, including the charges for coding, punching, or
22 otherwise producing any computer software and the charges for the
23 tapes, disks, punched cards, or other properties furnished by the
24 seller; and

25 (b) In the furnishing of videotapes, movie film,

1 satellite programming, satellite programming service, and satellite
2 television signal descrambling or decoding devices, the gross income
3 received from the license, franchise, or other method establishing
4 the charge.

5 (4) Gross receipts for providing a service means:

6 (a) The gross income received for building cleaning and
7 maintenance, pest control, and security;

8 (b) The gross income received for motor vehicle washing,
9 waxing, towing, and painting;

10 (c) The gross income received for computer software
11 training;

12 (d) The gross income received for installing and applying
13 tangible personal property if the sale of the property is subject to
14 tax. If any or all of the charge for installation is free to the
15 customer and is paid by a third-party service provider to the
16 installer, any tax due on that part of the activation commission,
17 finder's fee, installation charge, or similar payment made by the
18 third-party service provider shall be paid and remitted by the third-
19 party service provider;

20 (e) The gross income received for services of
21 recreational vehicle parks;

22 (f) The gross income received for labor for repair or
23 maintenance services performed with regard to tangible personal
24 property the sale of which would be subject to sales and use taxes,
25 excluding motor vehicles, ~~except as otherwise provided in section~~

1 ~~77-2704.26 or 77-2704.50; for motor vehicles used by a common or~~
2 contract carrier;

3 (g) The gross income received for animal specialty
4 services except (i) veterinary services, (ii) specialty services
5 performed on livestock as defined in section 54-183, and (iii) animal
6 grooming performed by a licensed veterinarian or a licensed
7 veterinary technician in conjunction with medical treatment; and

8 (h) The gross income received for detective services.

9 (5) Gross receipts includes the sale of admissions. When
10 an admission to an activity or a membership constituting an admission
11 is combined with the solicitation of a contribution, the portion or
12 the amount charged representing the fair market price of the
13 admission shall be considered a retail sale subject to the tax
14 imposed by section 77-2703. The organization conducting the activity
15 shall determine the amount properly attributable to the purchase of
16 the privilege, benefit, or other consideration in advance, and such
17 amount shall be clearly indicated on any ticket, receipt, or other
18 evidence issued in connection with the payment.

19 (6) Gross receipts includes the sale of live plants
20 incorporated into real estate except when such incorporation is
21 incidental to the transfer of an improvement upon real estate or the
22 real estate.

23 (7) Gross receipts includes the sale of any building
24 materials annexed to real estate by a person electing to be taxed as
25 a retailer pursuant to subdivision (1) of section 77-2701.10.

1 (8) Gross receipts includes the sale of and recharge of
2 prepaid calling service and prepaid wireless calling service.

3 (9) Gross receipts includes the retail sale of digital
4 audio works, digital audiovisual works, digital codes, and digital
5 books delivered electronically if the products are taxable when
6 delivered on tangible storage media. A sale includes the transfer of
7 a permanent right of use, the transfer of a right of use that
8 terminates on some condition, and the transfer of a right of use
9 conditioned upon the receipt of continued payments.

10 (10) Gross receipts does not include:

11 (a) The amount of any rebate granted by a motor vehicle
12 or motorboat manufacturer or dealer at the time of sale of the motor
13 vehicle or motorboat, which rebate functions as a discount from the
14 sales price of the motor vehicle or motorboat; or

15 (b) The price of property or services returned or
16 rejected by customers when the full sales price is refunded either in
17 cash or credit.

18 Sec. 7. Section 77-2701.24, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 77-2701.24 Occasional sale means:

21 (1) A sale, but not a lease or rental, of property which
22 is the subject of any intercompany sale or transfer involving any
23 parent, subsidiary, or brother-sister company relationship under
24 section 77-2704.28 and which was either originally acquired prior to
25 June 1, 1967, or, if acquired thereafter, the seller or transferor

1 directly or indirectly has previously paid a sales or use tax
2 thereon, including:

3 (a) From one corporation to another corporation pursuant
4 to a reorganization. For purposes of this subdivision, reorganization
5 means a statutory merger or consolidation or the acquisition by a
6 corporation of substantially all of the properties of another
7 corporation when the consideration is solely all or a part of the
8 voting stock of the acquiring corporation or of its parent or
9 subsidiary corporation;

10 (b) In connection with the winding up, dissolution, or
11 liquidation of a corporation only when there is a distribution of the
12 property of such corporation to the shareholders in kind if the
13 portion of the property so distributed to the shareholder is
14 substantially in proportion to the share of stock or securities held
15 by the shareholder;

16 (c) To a corporation for the purpose of organization of
17 such corporation or the contribution of additional capital to such
18 corporation when the former owners of the property transferred are
19 immediately after the transfer in control of the corporation and the
20 stock or securities received by each is substantially in proportion
21 to his or her interest in the property prior to the transfer;

22 (d) To a partnership in the organization of such
23 partnership if the former owners of the property transferred are
24 immediately after the transfer members of such partnership and the
25 interest in the partnership received by each is substantially in

1 proportion to his or her interest in the property prior to the
2 transfer;

3 (e) From a partnership to the members thereof when made
4 in kind in the dissolution of such partnership if the portion of the
5 property so distributed to the members of the partnership is
6 substantially in proportion to the interest in the partnership held
7 by the members;

8 (f) To a limited liability company in the organization of
9 such limited liability company if the former owners of the property
10 transferred are immediately after the transfer members of such
11 limited liability company and the interest in the limited liability
12 company received by each is substantially in proportion to his or her
13 interest in the property prior to the transfer;

14 (g) From a limited liability company to the members
15 thereof when made in kind in the dissolution of such limited
16 liability company if the portion of the property so distributed to
17 the members of the limited liability company is substantially in
18 proportion to the interest in the limited liability company held by
19 the members;

20 (h) From one limited liability company to another limited
21 liability company pursuant to a reorganization; or

22 (i) Any transaction between two persons that qualifies as
23 a tax-free transaction under the Internal Revenue Code;

24 (2) A sale of household goods, personal effects, and
25 services if each of the following conditions is met and if any one

1 condition is not met then the entire gross receipts shall be subject
2 to the tax imposed by section 77-2703:

3 (a) Such sales are by an individual at his or her
4 residence or if more than one individual's property is involved such
5 sales are by one of the individuals involved at the residence of one
6 of the individuals or such sales are by an individual on an online
7 auction site;

8 (b) Such sales do not occur at any residence or on an
9 online auction site for more than three days during a calendar year;

10 (c) Such individual or individuals or any member of any
11 of their households does not conduct or engage in a trade or business
12 in which similar items are sold or services provided;

13 (d) Such property sold was originally acquired for and
14 used for personal use or the service provided may be performed at any
15 individual residence without specialized equipment or supplies; and

16 (e) Such property is not otherwise excepted from the
17 definition of occasional sale;

18 (3) Commencing with any transaction occurring on or after
19 October 1, 1985, and before October 1, 2013, any sale of business or
20 farm machinery and equipment if each of the following conditions is
21 met and if any one condition is not met the entire gross receipts
22 shall be subject to the tax imposed by section 77-2703:

23 (a) Such machinery or equipment was used by the seller or
24 seller's predecessor in a sale described in subdivision (1) of this
25 section as a depreciable capital asset in connection with the farm or

1 business for a period of at least one year;

2 (b) Such property was originally acquired prior to June
3 1, 1967, or if acquired thereafter, the seller or seller's
4 predecessor in a sale described in subdivision (1) of this section
5 directly or indirectly has previously paid a sales or use tax
6 thereon; and

7 (c) Such property is not otherwise excepted from the
8 definition of occasional sale;

9 (4) Commencing with any transaction occurring on or after
10 October 1, 1985, and before October 1, 2013, a sale by an
11 organization created exclusively for religious purposes or an agent
12 of the organization for such sale if each of the following conditions
13 is met and if any one condition is not met then the entire gross
14 receipts shall be subject to the tax imposed by section 77-2703:

15 (a) All sales occur during an activity conducted by such
16 organization or, if more than one organization is involved, by one of
17 the organizations owning property being sold;

18 (b) The organization only sells property it owns or
19 provides the service during one such activity in a calendar year; and

20 (c) The activity does not last longer than three
21 consecutive days; and

22 (5) Any sale that is made in connection with the sale to
23 a single buyer of all or substantially all of a trade or business if
24 the seller or seller's predecessor in a sale described in subdivision
25 (1) of this section directly or indirectly has previously paid a

1 sales or use tax thereon. This subdivision shall apply to any
2 transaction occurring on or after October 1, 1985.

3 Commencing October 1, 1985, occasional sale does not
4 include any sale directly by or any sale which is supervised or aided
5 by an auctioneer or an agent or employee of an auctioneer.

6 Except for a sale listed in subdivision (1) of this
7 section, an occasional sale does not mean any sale of motor vehicles,
8 semitrailers, or trailers as defined in the Motor Vehicle
9 Registration Act or any sale of a motorboat as defined in section
10 37-1204.

11 Sec. 8. Section 77-2701.32, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-2701.32 (1) Retailer means any seller.

14 (2) To facilitate the proper administration of the
15 Nebraska Revenue Act of 1967, the following persons have the duties
16 and responsibilities of sellers for the purposes of sales and use
17 taxes:

18 (a) Any person in the business of making sales subject to
19 tax under section 77-2703 at auction of property owned by the person
20 or others;

21 (b) Any person collecting the proceeds of the auction,
22 other than the owner of the property, together with his or her
23 principal, if any, when the person collecting the proceeds of the
24 auction is not the auctioneer or an agent or employee of the
25 auctioneer. The seller does not include the auctioneer in such case;

1 (c) Every person who has elected to be considered a
2 retailer pursuant to subdivision (1) of section 77-2701.10;

3 (d) Every person operating, organizing, or promoting a
4 flea market, craft show, fair, or similar event; and

5 (e) Every person engaged in the business of providing any
6 service defined in subsection (4) of section 77-2701.16.

7 (3) For the proper administration of the Nebraska Revenue
8 Act of 1967, the following persons do not have the duties and
9 responsibilities of a seller for purposes of sales and use taxes:

10 (a) Any person who leases or rents films when an
11 admission tax is charged under the Nebraska Revenue Act of 1967; or

12 ~~(b) Any person who leases or rents railroad rolling stock~~
13 ~~interchanged pursuant to the provisions of the federal Interstate~~
14 ~~Commerce Act;~~

15 ~~(c) Any person engaged in the business of furnishing~~
16 ~~rooms in a facility licensed under the Health Care Facility Licensure~~
17 ~~Act in which rooms, lodgings, or accommodations are regularly~~
18 ~~furnished for a consideration or a facility operated by an~~
19 ~~educational institution established under Chapter 79 or Chapter 85 in~~
20 ~~which rooms are regularly used to house students for a consideration~~
21 ~~for periods in excess of thirty days; or~~

22 ~~(d)~~(b) Any person making sales at a flea market, craft
23 show, fair, or similar event when such person does not have a sales
24 tax permit and has arranged to pay sales taxes collected to the
25 person operating, organizing, or promoting such event.

1 Sec. 9. Section 77-2701.33, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-2701.33 Sale means any transfer of title or possession
4 or segregation in contemplation of transfer of title or possession,
5 exchange, barter, lease, or rental, conditional or otherwise, in any
6 manner or by any means, of property for a consideration or the
7 provision of service for a consideration. Sale includes, but is not
8 limited to:

9 (1) The producing, fabricating, processing, printing, or
10 imprinting of property for a consideration for consumers who furnish
11 either directly or indirectly the materials used in the producing,
12 fabricating, processing, printing, or imprinting; ~~and~~

13 (2) The renting or furnishing for periods of less than
14 thirty days of any room or rooms, lodgings, or accommodations in any
15 hotel, motel, inn, tourist camp, tourist cabin, or any other place,
16 ~~except including a~~ health care facility licensed under the Health
17 Care Facility Licensure Act in which rooms, lodgings, or
18 accommodations are regularly furnished for a consideration; and ~~or a~~
19 ~~facility operated by an educational institution established under~~
20 ~~Chapter 79 or Chapter 85 in which rooms are regularly used to house~~
21 ~~students for a consideration for periods in excess of thirty days.~~

22 (3) The renting or furnishing of any room or rooms,
23 lodgings, or accommodations by an educational institution or a
24 facility operated by an educational institution established under
25 Chapter 79 or Chapter 85 in which rooms are regularly used to house

1 students for a consideration.

2 Sec. 10. Section 77-2701.34, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-2701.34 (1) Sale for resale means a sale of property,
5 except for containers, or provision of a service to any purchaser who
6 is purchasing such property or service for the purpose of reselling
7 it in the normal course of his or her business, ~~either~~ and in the
8 form or condition in which it is purchased. ~~or as an attachment to or~~
9 ~~integral part of other property or service.~~ A sale for resale
10 includes ~~(1)-(a)~~ (a) a sale of building materials to a contractor or
11 repairperson electing to be taxed as a retailer under subdivision (1)
12 of section 77-2701.10 or a sale of building materials to a contractor
13 or repairperson being taxed as the consumer of building materials and
14 electing a tax-free inventory under subdivision (3) of section
15 77-2701.10, ~~(2)-(b)~~ (b) a sale of property to a purchaser for the sole
16 purpose of that purchaser renting or leasing such property to another
17 person, with rent or lease payments set at a fair market value, ~~(3)~~
18 (c) film rentals for use in a place where an admission is charged
19 that is subject to tax under the Nebraska Revenue Act of 1967 but not
20 if incidental to the renting or leasing of real estate, or ~~(4)-(d)~~ (d)
21 sale of digital products, community antenna television services,
22 Internet services, and satellite services to a person who receives by
23 contract the product or service transferred electronically for
24 further broadcast, transmission, retransmission, licensing,
25 relicensing, distribution, redistribution, or exhibition of the

1 product or service for use in a place where an admission is charged
2 that is subject to sales tax under the Nebraska Revenue Act of 1967.

3 (2) For purposes of this section, containers means
4 nonreturnable containers when sold without contents to persons who
5 place contents in the container and sell the contents together with
6 the container, containers when sold with contents if the sales price
7 of the contents is not required to be included in the measure of the
8 taxes imposed by the Nebraska Revenue Act of 1967, and returnable
9 containers when sold with contents in connection with a retail sale
10 of the contents or when resold for refilling.

11 Sec. 11. Section 77-2701.35, Reissue Revised Statutes of
12 Nebraska, is amended to read:

13 77-2701.35 (1) Sales price applies to the measure subject
14 to sales tax and means the total amount of consideration, including
15 cash, credit, property, and services, for which personal property or
16 services are sold, leased, or rented, valued in money, whether
17 received in money or otherwise, without any deduction for the
18 following:

19 (a) The seller's cost of the property sold;

20 (b) The cost of materials used, the cost of labor or
21 service, interest, losses, all costs of transportation to the seller,
22 all taxes imposed on the seller, and any other expense of the seller;

23 (c) Charges by the seller for any services necessary to
24 complete the sale;

25 (d) Delivery charges; and

1 (e) Installation charges.

2 (2) Sales price includes consideration received by the
3 seller from third parties if:

4 (a) The seller actually receives consideration from a
5 party other than the purchaser and the consideration is directly
6 related to a price reduction or discount on the sale;

7 (b) The seller has an obligation to pass the price
8 reduction or discount through to the purchaser;

9 (c) The amount of the consideration attributable to the
10 sale is fixed and determinable by the seller at the time of the sale
11 of the item to the purchaser; and

12 (d) One of the following criteria is met:

13 (i) The purchaser presents a coupon, certificate, or
14 other documentation to the seller to claim a price reduction or
15 discount when the coupon, certificate, or documentation is
16 authorized, distributed, or granted by a third party with the
17 understanding that the third party will reimburse any seller to whom
18 the coupon, certificate, or documentation is presented;

19 (ii) The purchaser identifies himself or herself to the
20 seller as a member of a group or organization entitled to a price
21 reduction or discount. A preferred customer card that is available to
22 any patron does not constitute membership in such a group; or

23 (iii) The price reduction or discount is identified as a
24 third-party price reduction or discount on the invoice received by
25 the purchaser or on a coupon, certificate, or other documentation

1 presented by the purchaser.

2 (3) Sales price does not include:

3 (a) Any discounts, including cash, terms, or coupons that
4 are not reimbursed by a third party that are allowed by a seller and
5 taken by a purchaser on a sale;

6 (b) Interest, financing, and carrying charges from credit
7 extended on the sale of personal property or services, if the amount
8 is separately stated on the invoice, bill of sale, or similar
9 document given to the purchaser;

10 (c) Any taxes legally imposed directly on the consumer
11 that are separately stated on the invoice, bill of sale, or similar
12 document given to the purchaser, except for any tax or fee imposed on
13 fuel bought for and used in aircraft; and

14 (d) Credit for any trade-in as follows:

15 (i) The value of property taken by a seller in trade as
16 all or a part of the consideration for a sale of property of any kind
17 or nature; or

18 (ii) The value of a motor vehicle or motorboat taken by
19 any person in trade as all or a part of the consideration for a sale
20 of another motor vehicle or motorboat.

21 Sec. 12. Section 77-2701.37, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-2701.37 Storage includes any retention in this state
24 for any purposes except sale in the regular course of business or
25 subsequent use solely outside this state of property purchased from a

1 retailer. ~~, other than property which will enter into or become an~~
2 ~~ingredient or component part of property manufactured, processed, or~~
3 ~~fabricated for ultimate sale at retail.~~

4 Sec. 13. Section 77-2701.42, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-2701.42 Use means the exercise of any right or power
7 over property incident to the ownership or possession of that
8 property, except that use does not include the sale of that property
9 in the regular course of business. ~~or the exercise of any right or~~
10 ~~power over property which will enter into or become an ingredient or~~
11 ~~component part of property manufactured, processed, or fabricated for~~
12 ~~ultimate sale at retail.~~ Use specifically includes the annexation of
13 building materials to real estate or the withdrawal of property or
14 building materials from inventory, which inventory is subject to
15 sales tax under the Nebraska Revenue Act of 1967 or would be subject
16 to the sales tax under the act except for an election under section
17 77-2701.10, for annexation to real estate or to improvements upon
18 real estate without regard to the fact that such building materials
19 are manufactured, processed, or fabricated prior to annexation or
20 that such real estate and improvements may subsequently be sold as
21 such.

22 Sec. 14. Section 77-2701.48, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-2701.48 (1) Bundled transaction means the retail sale
25 of two or more products, except real property and services to real

1 property, when (a) the products are otherwise distinct and
2 identifiable and (b) the products are sold for one non-itemized
3 price. Bundled transaction does not include the sale of any products
4 in which the sales price varies, or is negotiable, based on the
5 selection by the purchaser of the products included in the
6 transaction.

7 (2) Distinct and identifiable products do not include:

8 (a) Packaging, such as containers, boxes, sacks, bags,
9 and bottles or other materials such as wrapping, labels, tags, and
10 instruction guides that accompany the retail sale of the products and
11 are incidental or immaterial to the retail sale thereof. Examples of
12 packaging that are incidental or immaterial include grocery sacks,
13 shoeboxes, dry cleaning garment bags, and express delivery envelopes
14 and boxes;

15 (b) A product provided free of charge with the required
16 purchase of another product. A product is provided free of charge if
17 the sales price of the product purchased does not vary depending on
18 the inclusion of the product provided free of charge; and

19 (c) Items included in the definition of sales price
20 pursuant to section 77-2701.35.

21 (3) One non-itemized price does not include a price that
22 is separately identified by product on binding sales or other
23 supporting sales-related documentation made available to the customer
24 in paper or electronic form, including, but not limited to, an
25 invoice, bill of sale, receipt, contract, service agreement, lease

1 agreement, periodic notice of rates and services, rate card, or price
2 list.

3 (4) A transaction that otherwise meets the definition of
4 a bundled transaction is not a bundled transaction if it is (a) the
5 retail sale of tangible personal property and a service where the
6 tangible personal property is essential to the use of the service,
7 and is provided exclusively in connection with the service, and the
8 true object of the transaction is the service, (b) the retail sale of
9 services when one service is provided that is essential to the use or
10 receipt of a second service and the first service is provided
11 exclusively in connection with the second service and the true object
12 of the transaction is the second service, or (c) a transaction that
13 includes taxable products and nontaxable products and the purchase
14 price or sales price of the taxable products is de minimus. De
15 minimus means the seller's purchase price or sales price of the
16 taxable products is ten percent or less of the total purchase price
17 or sales price of the bundled products. Sellers shall use either the
18 purchase price or the sales price of the products to determine if the
19 taxable products are de minimus. Sellers may not use a combination of
20 the purchase price and sales price of the products to determine if
21 the taxable products are de minimus. Sellers shall use the full term
22 of a service contract to determine if the taxable products are de
23 minimus.

24 (5) Bundled transaction does not include the retail sale
25 of exempt tangible personal property and taxable tangible personal

1 property if ~~(a)~~ the transaction includes food and food ingredients,
2 ~~or drugs, durable medical equipment, mobility enhancing equipment,~~
3 ~~over the counter drugs, prosthetic devices, or medical supplies~~ and
4 ~~(b)~~ the seller's purchase price or sales price of the taxable
5 tangible personal property is fifty percent or less of the total
6 purchase price or sales price of the bundled tangible personal
7 property. Sellers may not use a combination of the purchase price and
8 sales price of the tangible personal property when making the fifty-
9 percent determination for a transaction.

10 Sec. 15. Section 77-2704.12, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 77-2704.12 (1) Sales and use taxes shall not be imposed
13 on the gross receipts from the sale, lease, or rental of and the
14 storage, use, or other consumption in this state of purchases by ~~(a)~~
15 ~~any nonprofit organization created exclusively for religious~~
16 ~~purposes, (b) any nonprofit organization providing services~~
17 ~~exclusively to the blind, (c) any nonprofit private educational~~
18 ~~institution established under sections 79-1601 to 79-1607, (d) any~~
19 ~~regionally or nationally accredited, nonprofit, privately controlled~~
20 ~~college or university with its primary campus physically located in~~
21 ~~Nebraska, (e) any nonprofit (i) hospital, (ii) health clinic when one~~
22 or more hospitals or the parent corporations of the hospitals own or
23 control the health clinic for the purpose of reducing the cost of
24 health services or when the health clinic receives federal funds
25 through the United States Public Health Service for the purpose of

1 serving populations that are medically underserved, ~~(iii) skilled~~
2 ~~nursing facility, (iv) intermediate care facility, (v) assisted-~~
3 ~~living facility, (vi) intermediate care facility for the mentally~~
4 ~~retarded, (vii) nursing facility, (viii) home health agency, (ix)~~
5 ~~hospice or hospice service, (x) respite care service, or (xi) or any~~
6 nonprofit mental health center licensed under the Health Care
7 Facility Licensure Act. , ~~(f) any nonprofit licensed child-caring~~
8 ~~agency, (g) any nonprofit licensed child placement agency, or (h) any~~
9 ~~nonprofit organization certified by the Department of Health and~~
10 ~~Human Services to provide community-based services for persons with~~
11 ~~developmental disabilities.~~

12 (2) Any organization listed in subsection (1) of this
13 section shall apply for an exemption on forms provided by the Tax
14 Commissioner. The application shall be approved and a numbered
15 certificate of exemption received by the applicant organization in
16 order to be exempt from the sales and use tax.

17 (3) The appointment of purchasing agents shall be
18 recognized for the purpose of altering the status of the construction
19 contractor as the ultimate consumer of building materials which are
20 physically annexed to the structure and which subsequently belong to
21 the owner of the organization or institution. The appointment of
22 purchasing agents shall be in writing and occur prior to having any
23 building materials annexed to real estate in the construction,
24 improvement, or repair. The contractor who has been appointed as a
25 purchasing agent may apply for a refund of or use as a credit against

1 a future use tax liability the tax paid on inventory items annexed to
2 real estate in the construction, improvement, or repair of a project
3 for a licensed not-for-profit institution.

4 (4) Any organization listed in subsection (1) of this
5 section which enters into a contract of construction, improvement, or
6 repair upon property annexed to real estate without first issuing a
7 purchasing agent authorization to a contractor or repairperson prior
8 to the building materials being annexed to real estate in the project
9 may apply to the Tax Commissioner for a refund of any sales and use
10 tax paid by the contractor or repairperson on the building materials
11 physically annexed to real estate in the construction, improvement,
12 or repair.

13 (5) Any person purchasing, storing, using, or otherwise
14 consuming building materials in the performance of any construction,
15 improvement, or repair by or for any institution enumerated in
16 subsection (1) of this section which is licensed upon completion
17 although not licensed at the time of construction or improvement,
18 which building materials are annexed to real estate and which
19 subsequently belong to the owner of the institution, shall pay any
20 applicable sales or use tax thereon. Upon becoming licensed and
21 receiving a numbered certificate of exemption, the institution
22 organized not for profit shall be entitled to a refund of the amount
23 of taxes so paid in the performance of such construction,
24 improvement, or repair and shall submit whatever evidence is required
25 by the Tax Commissioner sufficient to establish the total sales and

1 use tax paid upon the building materials physically annexed to real
2 estate in the construction, improvement, or repair.

3 Sec. 16. Section 77-2704.41, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-2704.41 (1) Sales and use taxes shall not be imposed
6 on the gross receipts from the sale, lease, or rental of and the
7 storage, use, or other consumption in this state of feed, water, and
8 veterinary medicines, ~~and agricultural chemicals~~ for consumption by,
9 to be used on, or which are otherwise used in caring for any form of
10 animal life of a kind the products of which ordinarily constitute
11 food for human consumption or of a kind the pelts of which ordinarily
12 are used for human apparel.

13 (2) For purposes of this section:

14 ~~(a) Agricultural chemicals shall include insecticides,~~
15 ~~fungicides, growth regulating chemicals, and hormones;~~

16 ~~(b)-(a)~~ Feed shall include all grains, minerals, salts,
17 proteins, fats, fibers, vitamins, and grit commonly used as feed or
18 feed supplements; and

19 ~~(c)-(b)~~ Veterinary medicines shall include medicines for
20 the prevention or treatment of disease or injury.

21 Sec. 17. Section 77-2704.46, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-2704.46 Sales and use taxes shall not be imposed on
24 the gross receipts from the sale, lease, or rental of and the
25 storage, use, or other consumption in this state of: ~~(1) Any~~ any form

1 of animal life of a kind the products of which ordinarily constitute
2 food for human consumption. Animal life includes live poultry, other
3 species of game birds subject to permit and regulation by the Game
4 and Parks Commission, and livestock on the hoof when sales are made
5 by the grower, producer, feeder, or any person engaged in the
6 business of bartering, buying, or selling live poultry, other species
7 of game birds subject to permit and regulation by the Game and Parks
8 Commission, or livestock on the hoof. †

9 ~~(2) Seeds and annual plants, the products of which~~
10 ~~ordinarily constitute food for human consumption and which seeds and~~
11 ~~annual plants are sold to commercial producers of such products, and~~
12 ~~seed legumes, seed grasses, and seed grains when sold to be used~~
13 ~~exclusively for agricultural purposes;~~

14 ~~(3) Agricultural chemicals, adjuvants, surfactants,~~
15 ~~bonding agents, clays, oils, and any other additives or compatibility~~
16 ~~agents for use in commercial agriculture and applied to land or crops~~
17 ~~and sold in any tax period that has not been closed by the applicable~~
18 ~~statute of limitations. Agricultural chemicals does not mean~~
19 ~~chemicals, adjuvants, surfactants, bonding agents, clays, oils, and~~
20 ~~any other additives or compatibility agents applied to harvested~~
21 ~~grains stored in commercial elevators; or~~

22 ~~(4) Oxygen for use in aquaculture as defined in section~~
23 ~~2-3804.01.~~

24 Sec. 18. Section 77-2706, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 77-2706 (1) A resale certificate may be given by a
2 purchaser who at the time of purchasing the property intends to sell,
3 lease, or rent it in the regular course of business. A seller making
4 repeated sales of the same type to the same purchaser shall not be
5 required to take a separate resale certificate for each individual
6 sale, but may, at his or her own risk, take a blanket certificate
7 covering all such sales made to the same purchaser.

8 (2) The resale certificate shall be on such form and
9 require the furnishing of such information as the Tax Commissioner
10 may require by rule and regulation.

11 (3) If a purchaser who gives a resale certificate makes
12 any use of the property other than retention, demonstration, or
13 display while holding it for sale, lease, or rental in the regular
14 course of business, the use shall be taxable to the purchaser as of
15 the time when the property is first so used and the sales price of
16 the property to him or her shall be deemed the measure of the tax.

17 (4) Any person who gives a resale certificate to the
18 seller for property which he or she knows, at the time of purchase,
19 is purchased for the purpose of use rather than for the purpose of
20 resale, lease, or rental by him or her in the regular course of
21 business and each officer of any corporation which so gives a resale
22 certificate shall be guilty of a misdemeanor.

23 (5) If a purchaser gives a resale certificate with
24 respect to the purchase of tangible goods and thereafter commingles
25 such goods with other tangible goods not so purchased but of such

1 similarity that the identity of the constituent goods in the
2 commingled mass cannot be determined, sales from the mass of
3 commingled goods shall be deemed to be sales of the goods covered by
4 the resale certificate until a quantity of commingled goods equal to
5 the quantity of such goods so commingled has been sold.

6 ~~(6) Any person, firm, or corporation engaged in~~
7 ~~multistate operations and engaged as a common or contract carrier may~~
8 ~~apply to the Tax Commissioner for an exemption certificate which will~~
9 ~~permit such person or corporation to make purchases of any nature~~
10 ~~within this state or without this state and bring such purchases into~~
11 ~~this state for use both within and without this state, for storage in~~
12 ~~this state, and when withdrawn from storage to be used within or~~
13 ~~without the state without paying the sales or use tax thereon, until~~
14 ~~such articles, materials, or supplies or finished products are placed~~
15 ~~in use within this state. When such articles, materials, supplies, or~~
16 ~~finished products are used within this state, a person to whom such~~
17 ~~exemption certificate has been issued shall, on the last day of the~~
18 ~~first following month after which such articles, materials, supplies,~~
19 ~~or finished products are put to use within this state, make a report~~
20 ~~to the Tax Commissioner as to the amount of use or sales tax, if any,~~
21 ~~which is due the state and make the payments to the state at the time~~
22 ~~of making the return. If the Tax Commissioner, after investigation,~~
23 ~~finds that the applicant maintains satisfactory books of account and~~
24 ~~that granting such exemption would not result in the evasion or~~
25 ~~avoidance of any tax otherwise properly due, he or she shall issue~~

1 ~~such exemption certificate. Any person granted such an exemption~~
2 ~~certificate shall furnish a copy thereof to any vendor from whom~~
3 ~~purchases are made and such vendor may deliver any such purchases to~~
4 ~~the holder of any such certificate without collection of any such~~
5 ~~sales tax. The fee for such exemption certificate shall be ten~~
6 ~~dollars. The revenue from such fees shall be placed in the General~~
7 ~~Fund.~~

8 ~~(7)-(6)~~ If any person, firm, corporation, association, or
9 the agent thereof presents a resale certificate to the seller for
10 property which is purchased for a use other than for resale, lease,
11 or rental by him or her in the regular course of business, the Tax
12 Commissioner may impose, assess, and collect from the purchaser or
13 the agent thereof a penalty of one hundred dollars or ten times the
14 tax, whichever amount is larger, for each instance of such
15 presentation and misuse of a resale certificate. This amount shall be
16 in addition to any tax, interest, or penalty otherwise imposed.

17 Any report, name, or information which is supplied to the
18 Tax Commissioner regarding a violation specified in this section,
19 including the identity of the informer, shall be subject to the
20 pertinent provisions regarding wrongful disclosure in section
21 77-2711.

22 Sec. 19. Section 77-2708, Revised Statutes Cumulative
23 Supplement, 2012, is amended to read:

24 77-2708 (1)(a) The sales and use taxes imposed by the
25 Nebraska Revenue Act of 1967 shall be due and payable to the Tax

1 Commissioner monthly on or before the twentieth day of the month next
2 succeeding each monthly period unless otherwise provided pursuant to
3 the Nebraska Revenue Act of 1967.

4 (b)(i) On or before the twentieth day of the month
5 following each monthly period or such other period as the Tax
6 Commissioner may require, a return for such period, along with all
7 taxes due, shall be filed with the Tax Commissioner in such form and
8 content as the Tax Commissioner may prescribe and containing such
9 information as the Tax Commissioner deems necessary for the proper
10 administration of the Nebraska Revenue Act of 1967. The Tax
11 Commissioner, if he or she deems it necessary in order to insure
12 payment to or facilitate the collection by the state of the amount of
13 sales or use taxes due, may require returns and payment of the amount
14 of such taxes for periods other than monthly periods in the case of a
15 particular seller, retailer, or purchaser, as the case may be. The
16 Tax Commissioner shall by rule and regulation require reports and tax
17 payments from sellers, retailers, or purchasers depending on their
18 yearly tax liability. Except as required by the streamlined sales and
19 use tax agreement, annual returns shall be required if such sellers',
20 retailers', or purchasers' yearly tax liability is less than nine
21 hundred dollars, quarterly returns shall be required if their yearly
22 tax liability is nine hundred dollars or more and less than three
23 thousand dollars, and monthly returns shall be required if their
24 yearly tax liability is three thousand dollars or more. The Tax
25 Commissioner shall have the discretion to allow an annual return for

1 seasonal retailers, even when their yearly tax liability exceeds the
2 amounts listed in this subdivision.

3 The Tax Commissioner may adopt and promulgate rules and
4 regulations to allow annual, semiannual, or quarterly returns for any
5 retailer making monthly remittances or payments of sales and use
6 taxes by electronic funds transfer or for any retailer remitting tax
7 to the state pursuant to the streamlined sales and use tax agreement.
8 Such rules and regulations may establish a method of determining the
9 amount of the payment that will result in substantially all of the
10 tax liability being paid each quarter. At least once each year, the
11 difference between the amount paid and the amount due shall be
12 reconciled. If the difference is more than ten percent of the amount
13 paid, a penalty of fifty percent of the unpaid amount shall be
14 imposed.

15 (ii) For purposes of the sales tax, a return shall be
16 filed by every retailer liable for collection from a purchaser and
17 payment to the state of the tax, except that a combined sales tax
18 return may be filed for all licensed locations which are subject to
19 common ownership. For purposes of this subdivision, common ownership
20 means the same person or persons own eighty percent or more of each
21 licensed location. For purposes of the use tax, a return shall be
22 filed by every retailer engaged in business in this state and by
23 every person who has purchased property, the storage, use, or other
24 consumption of which is subject to the use tax, but who has not paid
25 the use tax due to a retailer required to collect the tax.

1 (iii) The Tax Commissioner may require that returns be
2 signed by the person required to file the return or by his or her
3 duly authorized agent but need not be verified by oath.

4 (iv) A taxpayer who keeps his or her regular books and
5 records on a cash basis, an accrual basis, or any generally
6 recognized accounting basis which correctly reflects the operation of
7 the business may file the sales and use tax returns required by the
8 Nebraska Revenue Act of 1967 on the same accounting basis that is
9 used for the regular books and records, except that on credit,
10 conditional, and installment sales, the retailer who keeps his or her
11 books on an accrual basis may report such sales on the cash basis and
12 pay the tax upon the collections made during each month. If a
13 taxpayer transfers, sells, assigns, or otherwise disposes of an
14 account receivable, he or she shall be deemed to have received the
15 full balance of the consideration for the original sale and shall be
16 liable for the remittance of the sales tax on the balance of the
17 total sale price not previously reported, except that such transfer,
18 sale, assignment, or other disposition of an account receivable by a
19 retailer to a subsidiary shall not be deemed to require the retailer
20 to pay the sales tax on the credit sale represented by the account
21 transferred prior to the time the customer makes payment on such
22 account. If the subsidiary does not obtain a Nebraska sales tax
23 permit, the taxpayer shall obtain a surety bond in favor of the State
24 of Nebraska to insure payment of the tax and any interest and penalty
25 imposed thereon under this section in an amount not less than two

1 times the amount of tax payable on outstanding accounts receivable
2 held by the subsidiary as of the end of the prior calendar year.
3 Failure to obtain either a sales tax permit or a surety bond in
4 accordance with this section shall result in the payment on the next
5 required filing date of all sales taxes not previously remitted. When
6 the retailer has adopted one basis or the other of reporting credit,
7 conditional, or installment sales and paying the tax thereon, he or
8 she will not be permitted to change from that basis without first
9 having notified the Tax Commissioner.

10 (c) Except as provided in the streamlined sales and use
11 tax agreement, the taxpayer required to file the return shall deliver
12 or mail any required return together with a remittance of the net
13 amount of the tax due to the office of the Tax Commissioner on or
14 before the required filing date. Failure to file the return, filing
15 after the required filing date, failure to remit the net amount of
16 the tax due, or remitting the net amount of the tax due after the
17 required filing date shall be cause for a penalty, in addition to
18 interest, of ten percent of the amount of tax not paid by the
19 required filing date or twenty-five dollars, whichever is greater,
20 unless the penalty is being collected under subdivision (1)(i) or (1)
21 (j)(i) of section 77-2703 by a county treasurer or the Department of
22 Motor Vehicles, in which case the penalty shall be five dollars.

23 (d) The taxpayer shall deduct and withhold, from the
24 taxes otherwise due from him or her on his or her tax return, two and
25 one-half percent of the first three thousand dollars remitted each

1 month to reimburse himself or herself for the cost of collecting the
2 tax. Taxpayers filing a combined return as allowed by subdivision (1)
3 (b)(ii) of this subsection shall compute such collection fees on the
4 basis of the receipts and liability of each licensed location.

5 (2)(a) If the Tax Commissioner determines that any sales
6 or use tax amount, penalty, or interest has been paid more than once,
7 or has been erroneously or illegally collected or computed, or has
8 ~~been paid and the purchaser qualifies for a refund under section~~
9 ~~77-2708.01,~~ the Tax Commissioner shall set forth that fact in his or
10 her records and the excess amount collected or paid may be credited
11 on any sales, use, or income tax amounts then due and payable from
12 the person under the Nebraska Revenue Act of 1967. Any balance may be
13 refunded to the person by whom it was paid or his or her successors,
14 administrators, or executors.

15 (b) No refund shall be allowed unless a claim therefor is
16 filed with the Tax Commissioner by the person who made the
17 overpayment or his or her attorney, executor, or administrator within
18 three years from the required filing date following the close of the
19 period for which the overpayment was made, within six months after
20 any determination becomes final under section 77-2709, or within six
21 months from the date of overpayment with respect to such
22 determinations, whichever of these three periods expires later,
23 unless the credit relates to a period for which a waiver has been
24 given. Failure to file a claim within the time prescribed in this
25 subsection shall constitute a waiver of any demand against the state

1 on account of overpayment.

2 (c) Every claim shall be in writing on forms prescribed
3 by the Tax Commissioner and shall state the specific amount and
4 grounds upon which the claim is founded. No refund shall be made in
5 any amount less than two dollars.

6 (d) The Tax Commissioner shall allow or disallow a claim
7 within one hundred eighty days after it has been filed. A request for
8 a hearing shall constitute a waiver of the one-hundred-eighty-day
9 period. The claimant and the Tax Commissioner may also agree to
10 extend the one-hundred-eighty-day period. If a hearing has not been
11 requested and the Tax Commissioner has neither allowed nor disallowed
12 a claim within either the one hundred eighty days or the period
13 agreed to by the claimant and the Tax Commissioner, the claim shall
14 be deemed to have been allowed.

15 (e) Within thirty days after disallowing any claim in
16 whole or in part, the Tax Commissioner shall serve notice of his or
17 her action on the claimant in the manner prescribed for service of
18 notice of a deficiency determination.

19 (f) Within thirty days after the mailing of the notice of
20 the Tax Commissioner's action upon a claim filed pursuant to the
21 Nebraska Revenue Act of 1967, the action of the Tax Commissioner
22 shall be final unless the taxpayer seeks review of the Tax
23 Commissioner's determination as provided in section 77-27,127.

24 (g) Upon the allowance of a credit or refund of any sum
25 erroneously or illegally assessed or collected, of any penalty

1 collected without authority, or of any sum which was excessive or in
2 any manner wrongfully collected, interest shall be allowed and paid
3 on the amount of such credit or refund at the rate specified in
4 section 45-104.02, as such rate may from time to time be adjusted,
5 from the date such sum was paid or from the date the return was
6 required to be filed, whichever date is later, to the date of the
7 allowance of the refund or, in the case of a credit, to the due date
8 of the amount against which the credit is allowed, but in the case of
9 a voluntary and unrequested payment in excess of actual tax
10 liability, ~~or a refund under section 77-2708.01,~~ no interest shall be
11 allowed when such excess is refunded or credited.

12 (h) No suit or proceeding shall be maintained in any
13 court for the recovery of any amount alleged to have been erroneously
14 or illegally determined or collected unless a claim for refund or
15 credit has been duly filed.

16 (i) The Tax Commissioner may recover any refund or part
17 thereof which is erroneously made and any credit or part thereof
18 which is erroneously allowed by issuing a deficiency determination
19 within one year from the date of refund or credit or within the
20 period otherwise allowed for issuing a deficiency determination,
21 whichever expires later.

22 (j)(i) Credit shall be allowed to the retailer,
23 contractor, or repairperson for sales or use taxes paid pursuant to
24 the Nebraska Revenue Act of 1967 on any deduction taken that is
25 attributed to bad debts not including interest. Bad debt has the same

1 meaning as in 26 U.S.C. 166, as such section existed on January 1,
2 2003. However, the amount calculated pursuant to 26 U.S.C. 166 shall
3 be adjusted to exclude: Financing charges or interest; sales or use
4 taxes charged on the purchase price; uncollectible amounts on
5 property that remains in the possession of the seller until the full
6 purchase price is paid; and expenses incurred in attempting to
7 collect any debt and repossessed property.

8 (ii) Bad debts may be deducted on the return for the
9 period during which the bad debt is written off as uncollectible in
10 the claimant's books and records and is eligible to be deducted for
11 federal income tax purposes. A claimant who is not required to file
12 federal income tax returns may deduct a bad debt on a return filed
13 for the period in which the bad debt is written off as uncollectible
14 in the claimant's books and records and would be eligible for a bad
15 debt deduction for federal income tax purposes if the claimant was
16 required to file a federal income tax return.

17 (iii) If a deduction is taken for a bad debt and the debt
18 is subsequently collected in whole or in part, the tax on the amount
19 so collected must be paid and reported on the return filed for the
20 period in which the collection is made.

21 (iv) When the amount of bad debt exceeds the amount of
22 taxable sales for the period during which the bad debt is written
23 off, a refund claim may be filed within the otherwise applicable
24 statute of limitations for refund claims. The statute of limitations
25 shall be measured from the due date of the return on which the bad

1 debt could first be claimed.

2 (v) If filing responsibilities have been assumed by a
3 certified service provider, the service provider may claim, on behalf
4 of the retailer, any bad debt allowance provided by this section. The
5 certified service provider shall credit or refund the full amount of
6 any bad debt allowance or refund received to the retailer.

7 (vi) For purposes of reporting a payment received on a
8 previously claimed bad debt, any payments made on a debt or account
9 are applied first proportionally to the taxable price of the property
10 or service and the sales tax thereon, and secondly to interest,
11 service charges, and any other charges.

12 (vii) In situations in which the books and records of the
13 party claiming the bad debt allowance support an allocation of the
14 bad debts among the member states in the streamlined sales and use
15 tax agreement, the state shall permit the allocation.

16 Sec. 20. Section 77-2715, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-2715 (1) ~~A~~ For taxable years beginning or deemed to
19 begin before January 1, 2014, a tax is hereby imposed for each
20 taxable year on the entire income of every resident individual and on
21 the income of every nonresident individual and partial-year resident
22 individual which is derived from sources within this state, except
23 that any individual who has additions to adjusted gross income
24 pursuant to section 77-2716 of less than five thousand dollars shall
25 not have an individual income tax liability after nonrefundable

1 credits under the Nebraska Revenue Act of 1967 that exceeds his or
2 her individual income tax liability before credits under the Internal
3 Revenue Code 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 77-2716 and 77-2716.01, plus a percentage of the
7 federal alternative minimum tax and the federal tax on premature or
8 lump-sum distributions from qualified retirement plans. The
9 additional taxes shall be recomputed by (a) substituting Nebraska
10 taxable income for federal taxable income, (b) calculating what the
11 federal alternative minimum tax would be on Nebraska taxable income
12 and adjusting such calculations for any items which are reflected
13 differently in the determination of federal taxable income, and (c)
14 applying Nebraska rates to the result. The federal credit for prior
15 year minimum tax, after the recomputations required by the act, shall
16 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 the liability to this state for a resident
23 individual with the same total income the credit for personal
24 exemptions and multiplying the result by a fraction, the numerator of
25 which is the nonresident individual's or partial-year resident

1 individual's Nebraska adjusted gross income as determined by section
 2 77-2733 or 77-2733.01 and the denominator of which is his or her
 3 total federal adjusted gross income, after first adjusting each by
 4 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. 21. Section 77-2715.03, Revised Statutes Cumulative
 18 Supplement, 2012, is amended to read:

19 77-2715.03 (1) For taxable years beginning or deemed to
 20 begin on or after January 1, 2013, and before January 1, 2014, the
 21 following brackets and rates are hereby established for the Nebraska
 22 individual income tax:

23 Individual Income Tax Brackets and Rates

24	Bracket	Single	Married,	Head of	Married,	Estates	Tax
25	Number	Individuals Filing	Household Filing	and	Rate		

			Jointly		Separate	Trusts	
1							
2	1	\$0-2,399	\$0-4,799	\$0-4,499	\$0-2,399	\$0-499	2.46%
3	2	\$2,400-	\$4,800-	\$4,500-	\$2,400-	\$500-	
4		17,499	34,999	27,999	17,499	4,699	3.51%
5	3	\$17,500-	\$35,000-	\$28,000-	\$17,500-	\$4,700-	
6		26,999	53,999	39,999	26,999	15,149	5.01%
7	4	\$27,000	\$54,000	\$40,000	\$27,000	\$15,150	
8		and Over	and Over	and Over	and Over	and Over	6.84%

9 ~~(2) For taxable years beginning or deemed to begin on or~~
 10 ~~after January 1, 2014, the following brackets and rates are hereby~~
 11 ~~established for the Nebraska individual income tax:~~

12 ~~Individual Income Tax Brackets and Rates~~

13	Bracket	Single	Married,	Head of	Married,	Estates	Tax
14	Number	Individuals	Filing	Household	Filing	and	Rate
15			Jointly		Separate	Trusts	
16	1	\$0-2,999	\$0-5,999	\$0-5,599	\$0-2,999	\$0-499	2.46%
17	2	\$3,000-	\$6,000-	\$5,600-	\$3,000-	\$500-	
18		17,999	35,999	28,799	17,999	4,699	3.51%
19	3	\$18,000-	\$36,000-	\$28,800-	\$18,000-	\$4,700-	
20		28,999	57,999	42,999	28,999	15,149	5.01%
21	4	\$29,000	\$58,000	\$43,000	\$29,000	\$15,150	
22		and Over	and Over	and Over	and Over	and Over	6.84%

1 ~~(3)~~(2) Whenever the tax brackets or tax rates are
2 changed by the Legislature, the Tax Commissioner shall update the tax
3 rate schedules to reflect the new tax brackets or tax rates and shall
4 publish such updated schedules.

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

13 ~~(5)~~(4) For taxable years beginning or deemed to begin on
14 or after January 1, 2013, and before January 1, 2014, the tax rate
15 applied to other federal taxes included in the computation of the
16 Nebraska individual income tax shall be 29.6 percent.

17 ~~(6)~~(5) The Tax Commissioner may require by rule and
18 regulation that all taxpayers shall use the tax tables if their
19 income is less than the maximum income included in the tax tables.

20 Sec. 22. Section 77-2715.07, Revised Statutes Cumulative
21 Supplement, 2012, is amended to read:

22 77-2715.07 (1) There shall be allowed to qualified
23 resident individuals as a nonrefundable credit against the income tax
24 imposed by the Nebraska Revenue Act of 1967:

25 (a) A credit equal to the federal credit allowed under

1 section 22 of the Internal Revenue Code; and

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

4 (2) There shall be allowed to qualified resident
5 individuals against the income tax imposed by the Nebraska Revenue
6 Act of 1967:

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

11 (b) For returns filed reporting federal adjusted gross
12 income of twenty-nine thousand dollars or less, a refundable credit
13 equal to a percentage of the federal credit allowable under section
14 21 of the Internal Revenue Code of 1986, as amended, whether or not
15 the federal credit was limited by the federal tax liability. The
16 percentage of the federal credit shall be one hundred percent for
17 incomes not greater than twenty-two thousand dollars, and the
18 percentage shall be reduced by ten percent for each one thousand
19 dollars, or fraction thereof, by which the reported federal adjusted
20 gross income exceeds twenty-two thousand dollars;

21 (c) A refundable credit as provided in section 77-5209.01
22 for individuals who qualify for an income tax credit as a qualified
23 beginning farmer or livestock producer under the Beginning Farmer Tax
24 Credit Act for all taxable years beginning or deemed to begin on or
25 after January 1, 2006, and before January 1, 2014, under the Internal

1 Revenue Code of 1986, as amended;

2 (d) A refundable credit for individuals who qualify for
3 an income tax credit under the Angel Investment Tax Credit Act, the
4 Nebraska Advantage Microenterprise Tax Credit Act, or the Nebraska
5 Advantage Research and Development Act; and

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

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

12 (a) A credit for personal exemptions allowed under
13 section 77-2716.01;

14 (b) A credit for contributions to certified community
15 betterment programs as provided in the Community Development
16 Assistance Act. Each partner, each shareholder of an electing
17 subchapter S corporation, each beneficiary of an estate or trust, or
18 each member of a limited liability company shall report his or her
19 share of the credit in the same manner and proportion as he or she
20 reports the partnership, subchapter S corporation, estate, trust, or
21 limited liability company income;

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

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

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

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

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

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, 2009, and before January 1,
12 2014, under the Internal Revenue Code of 1986, as amended. The credit
13 allowed for each partner, shareholder, member, or beneficiary of a
14 partnership, corporation, limited liability company, or estate or
15 trust qualifying for an income tax credit as an owner of agricultural
16 assets under the Beginning Farmer Tax Credit Act shall be equal to
17 the partner's, shareholder's, member's, or beneficiary's portion of
18 the amount of tax credit distributed pursuant to subsection (4) of
19 section 77-5211.

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 the

1 Nebraska Revenue Act of 1967 equal to fifty percent of the partner's,
2 shareholder's, member's, or beneficiary's portion of the amount of
3 franchise tax paid to the state under sections 77-3801 to 77-3807 by
4 a financial institution.

5 (b) For all taxable years beginning on or after January
6 1, 2009, and before January 1, 2014, under the Internal Revenue Code
7 of 1986, as amended, there shall be allowed to each partner,
8 shareholder, member, or beneficiary of a partnership, subchapter S
9 corporation, limited liability company, or estate or trust a
10 nonrefundable credit against the income tax imposed by the Nebraska
11 Revenue Act of 1967 equal to the partner's, shareholder's, member's,
12 or beneficiary's portion of the amount of franchise tax paid to the
13 state under sections 77-3801 to 77-3807 by a financial institution.

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

21 (6) The credits provided in this section shall apply only
22 for taxable years beginning or deemed to begin before January 1,
23 2014.

24 Sec. 23. Section 77-2717, Revised Statutes Cumulative
25 Supplement, 2012, is amended to read:

1 77-2717 (1)(a) ~~The~~ For taxable years beginning or deemed
2 to begin before January 1, 2014, the tax imposed on all resident
3 estates and trusts shall be a percentage of the federal taxable
4 income of such estates and trusts as modified in section 77-2716,
5 plus a percentage of the federal alternative minimum tax and the
6 federal tax on premature or lump-sum distributions from qualified
7 retirement plans. The additional taxes shall be recomputed by (i)
8 substituting Nebraska taxable income for federal taxable income, (ii)
9 calculating what the federal alternative minimum tax would be on
10 Nebraska taxable income and adjusting such calculations for any items
11 which are reflected differently in the determination of federal
12 taxable income, and (iii) applying Nebraska rates to the result. The
13 federal credit for prior year minimum tax, after the recomputations
14 required by the Nebraska Revenue Act of 1967, and the credits
15 provided in the Nebraska Advantage Microenterprise Tax Credit Act and
16 the Nebraska Advantage Research and Development Act shall be allowed
17 as a reduction in the income tax due. A refundable income tax credit
18 shall be allowed for all resident estates and trusts under the Angel
19 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
20 Credit Act, and the Nebraska Advantage Research and Development Act.
21 A nonrefundable income tax credit shall be allowed for all resident
22 estates and trusts as provided in the New Markets Job Growth
23 Investment Act.

24 (b) ~~The~~ For taxable years beginning or deemed to begin
25 before January 1, 2014, the tax imposed on all nonresident estates

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

23 (2) ~~In~~ For taxable years beginning or deemed to begin
24 before January 1, 2014, in all instances wherein a fiduciary income
25 tax return is required under the provisions of the Internal Revenue

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

11 (3) ~~The~~ For taxable years beginning or deemed to begin
12 before January 1, 2014, the beneficiaries of such estate or trust who
13 are residents of this state shall include in their income their
14 proportionate share of such estate's or trust's federal income and
15 shall reduce their Nebraska tax liability by their proportionate
16 share of the credits as provided in the Angel Investment Tax Credit
17 Act, the Nebraska Advantage Microenterprise Tax Credit Act, the
18 Nebraska Advantage Research and Development Act, and the New Markets
19 Job Growth Investment Act. There shall be allowed to a beneficiary a
20 refundable income tax credit under the Beginning Farmer Tax Credit
21 Act for all taxable years beginning or deemed to begin on or after
22 January 1, 2001, and before January 1, 2014, under the Internal
23 Revenue Code of 1986, as amended.

24 (4) ~~If~~ For taxable years beginning or deemed to begin
25 before January 1, 2014, if any beneficiary of such estate or trust is

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

17 (5) ~~In~~ For taxable years beginning or deemed to begin
18 before January 1, 2014, in the absence of the nonresident
19 beneficiary's executed agreement being attached to the Nebraska
20 fiduciary return, the estate or trust shall remit a portion of such
21 beneficiary's income which was derived from or attributable to
22 Nebraska sources with its Nebraska return for the taxable year. For
23 taxable years beginning or deemed to begin before January 1, 2013,
24 the amount of remittance, in such instance, shall be the highest
25 individual income tax rate determined under section 77-2715.02

1 multiplied by the nonresident beneficiary's share of the estate or
2 trust income which was derived from or attributable to sources within
3 this state. For taxable years beginning or deemed to begin on or
4 after January 1, 2013, and before January 1, 2014, the amount of
5 remittance, in such instance, shall be the highest individual income
6 tax rate determined under section 77-2715.03 multiplied by the
7 nonresident beneficiary's share of the estate or trust income which
8 was derived from or attributable to sources within this state. The
9 amount remitted shall be allowed as a credit against the Nebraska
10 income tax liability of the beneficiary.

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

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

1 does not distribute amounts allocated in the corpus of the trust. Any
2 trust which does not qualify as a simple trust shall be deemed a
3 complex trust.

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

8 Sec. 24. Section 77-2727, Revised Statutes Cumulative
9 Supplement, 2012, is amended to read:

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

15 (2) ~~The~~ For taxable years beginning or deemed to begin
16 before January 1, 2014, the partners of such partnership who are
17 residents of this state or corporations shall include in their
18 incomes their proportionate share of such partnership's income.

19 (3) ~~If~~ For taxable years beginning or deemed to begin
20 before January 1, 2014, if any partner of such partnership is a
21 nonresident individual during any part of the partnership's reporting
22 year, he or she shall file a Nebraska income tax return which shall
23 include in Nebraska adjusted gross income that portion of the
24 partnership's Nebraska income, as determined under the provisions of
25 sections 77-2728 and 77-2729, allocable to his or her interest in the

1 partnership and shall execute and forward to the partnership, on or
2 before the original due date of the Nebraska partnership return, an
3 agreement which states that he or she will file a Nebraska income tax
4 return and pay income tax on all income derived from or attributable
5 to sources in this state, and such agreement shall be attached to the
6 partnership's Nebraska return for such reporting year.

7 (4)(a) Except as provided in subdivision (c) of this
8 subsection, in the absence of the nonresident individual partner's
9 executed agreement being attached to the Nebraska partnership return,
10 the partnership shall remit a portion of such partner's income which
11 was derived from or attributable to Nebraska sources with its
12 Nebraska return for the reporting year. For tax years beginning or
13 deemed to begin before January 1, 2013, the amount of remittance, in
14 such instance, shall be the highest individual income tax rate
15 determined under section 77-2715.02 multiplied by the nonresident
16 individual partner's share of the partnership income which was
17 derived from or attributable to sources within this state. For tax
18 years beginning or deemed to begin on or after January 1, 2013, and
19 before January 1, 2014, the amount of remittance, in such instance,
20 shall be the highest individual income tax rate determined under
21 section 77-2715.03 multiplied by the nonresident individual partner's
22 share of the partnership income which was derived from or
23 attributable to sources within this state.

24 (b) Any amount remitted on behalf of any partner shall be
25 allowed as a credit against the Nebraska income tax liability of the

1 partner.

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

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

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

23 Sec. 25. Section 77-2734.01, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 77-2734.01 (1) ~~Residents~~ For taxable years beginning or

1 deemed to begin before January 1, 2014, residents of Nebraska who are
2 shareholders of a small business corporation having an election in
3 effect under subchapter S of the Internal Revenue Code or who are
4 members of a limited liability company organized pursuant to the
5 Limited Liability Company Act or the Nebraska Uniform Limited
6 Liability Company Act shall include in their Nebraska taxable income,
7 to the extent includable in federal gross income, their proportionate
8 share of such corporation's or limited liability company's federal
9 income adjusted pursuant to this section. Income or loss from such
10 corporation or limited liability company conducting a business,
11 trade, profession, or occupation shall be included in the Nebraska
12 taxable income of a shareholder or member who is a resident of this
13 state to the extent of such shareholder's or member's proportionate
14 share of the net income or loss from the conduct of such business,
15 trade, profession, or occupation within this state, determined under
16 subsection (2) of this section. A resident of Nebraska shall include
17 in Nebraska taxable income fair compensation for services rendered to
18 such corporation or limited liability company. Compensation actually
19 paid shall be presumed to be fair unless it is apparent to the Tax
20 Commissioner that such compensation is materially different from fair
21 value for the services rendered or has been manipulated for tax
22 avoidance purposes.

23 (2) The income of any small business corporation having
24 an election in effect under subchapter S of the Internal Revenue Code
25 or limited liability company organized pursuant to the Limited

1 Liability Company Act or the Nebraska Uniform Limited Liability
2 Company Act that is derived from or connected with Nebraska sources
3 shall be determined in the following manner:

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

12 (b) If the small business corporation or limited
13 liability company is not a member of a unitary group and is subject
14 to tax in another state, it shall apportion its income under sections
15 77-2734.05 to 77-2734.15; and

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

19 (3) ~~Nonresidents~~ For taxable years beginning or deemed to
20 begin before January 1, 2014, nonresidents of Nebraska who are
21 shareholders of such corporations or members of such limited
22 liability companies shall file a Nebraska income tax return and shall
23 include in Nebraska adjusted gross income their proportionate share
24 of the corporation's or limited liability company's Nebraska income
25 as determined under subsection (2) of this section.

1 (4) ~~The~~ For taxable years beginning or deemed to begin
2 before January 1, 2014, the nonresident shareholder or member shall
3 execute and forward to the corporation or limited liability company
4 before the filing of the corporation's or limited liability company's
5 return an agreement which states he or she will file a Nebraska
6 income tax return and pay the tax on the income derived from or
7 connected with sources in this state, and such agreement shall be
8 attached to the corporation's or limited liability company's Nebraska
9 return for such taxable year.

10 (5) For taxable years beginning or deemed to begin before
11 January 1, 2013, in the absence of the nonresident shareholder's or
12 member's executed agreement being attached to the Nebraska return,
13 the corporation or limited liability company shall remit with the
14 return an amount equal to the highest individual income tax rate
15 determined under section 77-2715.02 multiplied by the nonresident
16 shareholder's or member's share of the corporation's or limited
17 liability company's income which was derived from or attributable to
18 this state. For taxable years beginning or deemed to begin on or
19 after January 1, 2013, and before January 1, 2014, in the absence of
20 the nonresident shareholder's or member's executed agreement being
21 attached to the Nebraska return, the corporation or limited liability
22 company shall remit with the return an amount equal to the highest
23 individual income tax rate determined under section 77-2715.03
24 multiplied by the nonresident shareholder's or member's share of the
25 corporation's or limited liability company's income which was derived

1 from or attributable to this state. The amount remitted shall be
2 allowed as a credit against the Nebraska income tax liability of the
3 shareholder or member.

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

17 (7) A small business corporation or limited liability
18 company return shall be filed only if one or more of the shareholders
19 of the corporation or members of the limited liability company are
20 not residents of the State of Nebraska or if such corporation or
21 limited liability company has income derived from sources outside
22 this state.

23 (8) For purposes of this section, any shareholder or
24 member of the corporation or limited liability company that is a
25 grantor trust of a nonresident shall be disregarded and this section

1 shall apply as though the nonresident grantor was the shareholder or
2 member.

3 Sec. 26. Section 77-2734.02, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 77-2734.02 (1) ~~Except as provided in subsection (2) of~~
6 ~~this section, a~~ A tax is hereby imposed on the taxable income of
7 every corporate taxpayer that is doing business in this state, but
8 such tax shall apply only for taxable years beginning or deemed to
9 begin before January 1, 2014. Except as provided in subsection (2) of
10 this section, such tax shall be imposed as follows:

11 (a) For taxable years beginning or deemed to begin before
12 January 1, 2013, at a rate equal to one hundred fifty and eight-
13 tenths percent of the primary rate imposed on individuals under
14 section 77-2701.01 on the first one hundred thousand dollars of
15 taxable income and at the rate of two hundred eleven percent of such
16 rate on all taxable income in excess of one hundred thousand dollars.
17 The resultant rates shall be rounded to the nearest one hundredth of
18 one percent; and

19 (b) For taxable years beginning or deemed to begin on or
20 after January 1, 2013, and before January 1, 2014, at a rate equal to
21 5.58 percent on the first one hundred thousand dollars of taxable
22 income and at the rate of 7.81 percent on all taxable income in
23 excess of one hundred thousand dollars.

24 For corporate taxpayers with a fiscal year that does not
25 coincide with the calendar year, the individual rate used for this

1 subsection shall be the rate in effect on the first day, or the day
2 deemed to be the first day, of the taxable year.

3 (2) ~~An~~ For taxable years beginning or deemed to begin
4 before January 1, 2014, an insurance company shall be subject to
5 taxation at the lesser of the rate described in subsection (1) of
6 this section or the rate of tax imposed by the state or country in
7 which the insurance company is domiciled if the insurance company can
8 establish to the satisfaction of the Tax Commissioner that it is
9 domiciled in a state or country other than Nebraska that imposes on
10 Nebraska domiciled insurance companies a retaliatory tax against the
11 tax 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~~ For taxable years beginning or deemed to begin
18 before January 1, 2014, each corporate taxpayer shall file only one
19 income tax return for each taxable year.

20 Sec. 27. Section 77-2734.03, Revised Statutes Cumulative
21 Supplement, 2012, is amended to read:

22 77-2734.03 (1)(a) For taxable years commencing prior to
23 January 1, 1997, any (i) insurer paying a tax on premiums and
24 assessments pursuant to section 77-908 or 81-523, (ii) electric
25 cooperative organized under the Joint Public Power Authority Act, or

1 (iii) credit union shall be credited, in the computation of the tax
2 due under the Nebraska Revenue Act of 1967, with the amount paid
3 during the taxable year as taxes on such premiums and assessments and
4 taxes in lieu of intangible tax.

5 (b) For taxable years commencing on or after January 1,
6 1997, and before January 1, 2014, any insurer paying a tax on
7 premiums and assessments pursuant to section 77-908 or 81-523, any
8 electric cooperative organized under the Joint Public Power Authority
9 Act, or any credit union shall be credited, in the computation of the
10 tax due under the Nebraska Revenue Act of 1967, with the amount paid
11 during the taxable year as (i) taxes on such premiums and assessments
12 included as Nebraska premiums and assessments under section
13 77-2734.05 and (ii) taxes in lieu of intangible tax.

14 (c) For taxable years commencing or deemed to commence
15 prior to, on, or after January 1, 1998, and before January 1, 2014,
16 any insurer paying a tax on premiums and assessments pursuant to
17 section 77-908 or 81-523 shall be credited, in the computation of the
18 tax due under the Nebraska Revenue Act of 1967, with the amount paid
19 during the taxable year as assessments allowed as an offset against
20 premium and related retaliatory tax liability pursuant to section
21 44-4233.

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

25 (3) There shall be allowed to corporate taxpayers a

1 refundable income tax credit under the Beginning Farmer Tax Credit
2 Act for all taxable years beginning or deemed to begin on or after
3 January 1, 2001, and before January 1, 2014, under the Internal
4 Revenue Code of 1986, as amended.

5 (4) The changes made to this section by Laws 2004, LB
6 983, apply to motor fuels purchased during any tax year ending or
7 deemed to end on or after January 1, 2005, and before January 1,
8 2014, under the Internal Revenue Code of 1986, as amended.

9 (5) There shall be allowed to corporate taxpayers
10 refundable income tax credits under the Nebraska Advantage
11 Microenterprise Tax Credit Act and the Nebraska Advantage Research
12 and Development Act.

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

16 (7) There shall be allowed to corporate taxpayers a
17 nonrefundable income tax credit as provided in the New Markets Job
18 Growth Investment Act.

19 (8) The credits provided in this section shall apply only
20 for taxable years beginning or deemed to begin before January 1,
21 2014.

22 Sec. 28. Section 77-2753, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-2753 (1)(a) ~~Every~~ For taxable years beginning or
25 deemed to begin before January 1, 2014, every employer and payor

1 maintaining an office or transacting business within this state and
2 making payment of any wages or other payments as defined in
3 subsection (6) of this section which are taxable under the Nebraska
4 Revenue Act of 1967 to any individual shall deduct and withhold from
5 such wages for each payroll period and from such payments a tax
6 computed in such manner as to result, so far as practicable, in
7 withholding from the employee's wages and payments to the payee
8 during each calendar year an amount substantially equivalent to the
9 tax reasonably estimated to be due from the employee or payee under
10 such act with respect to the amount of such wages and payments
11 included in his or her taxable income during the calendar year. The
12 method of determining the amount to be withheld shall be prescribed
13 by rules and regulations of the Tax Commissioner. Such rules and
14 regulations may allow withholding to be computed at a percentage of
15 the federal withholding or at a comparable flat percentage for
16 gambling winnings or supplemental payments, including bonuses,
17 commissions, overtime pay, and sales awards which are not paid at the
18 same time as other wages, or payments to independent contractors. Any
19 withholding tables prescribed by the Tax Commissioner shall be
20 provided to the budget division of the Department of Administrative
21 Services and the Legislative Fiscal Analyst for review at least sixty
22 days before the tables become effective.

23 (b) ~~Notwithstanding~~ For taxable years beginning or deemed
24 to begin before January 1, 2014, notwithstanding the amount of
25 federal withholding or the rules and regulations of the Department of

1 Revenue determining the amount of withholding, every employer and
2 payor employing twenty-five or more employees shall withhold at least
3 one and one-half percent of the gross wages minus tax qualified
4 deductions of each employee unless the employee provides satisfactory
5 evidence that a lesser amount of withholding is justified in the
6 employee's particular circumstances. Such satisfactory evidence may
7 include birth certificates or social security information for
8 dependents or other evidence that reasonably assures the employer
9 that the employee is not improperly or fraudulently evading or
10 defeating the income tax by reducing or eliminating withholding.

11 (2)(a) ~~Every~~ For taxable years beginning or deemed to
12 begin before January 1, 2014, every payor who is either (i) making a
13 payment or payments in excess of five thousand dollars or (ii)
14 maintaining an office or transacting business within this state and
15 making a payment or payments related to such business in excess of
16 six hundred dollars, and such payment or payments are for personal
17 services performed or to be performed substantially within this
18 state, to a nonresident individual, other than an employee, who is
19 not subject to withholding on such payment under the Internal Revenue
20 Code or a corporation, partnership, or limited liability company
21 described in subdivision (c) of this subsection, shall be deemed an
22 employer, and the individual performing the personal services shall
23 be deemed an employee for the purposes of this section. The payor
24 shall deduct and withhold from such payments the percentage of such
25 payments prescribed in subdivision (b) of this subsection. If the

1 individual performing the personal services provides the payor with a
2 statement of the expenses reasonably related to the personal
3 services, the total payment or payments may be reduced by the total
4 expenses before computing the amount to deduct and withhold, except
5 that such reduction shall not be more than fifty percent of such
6 payment or payments.

7 (b) For any payment or payments for the same service,
8 award, or purse that totals less than twenty-eight thousand dollars,
9 the percentage deducted from such payment or payments pursuant to
10 this subsection shall be four percent, and for all other payments,
11 the percentage shall be six percent.

12 (c) For any corporation, partnership, or limited
13 liability company that receives compensation for personal services in
14 this state and of which all or substantially all of the shareholders,
15 partners, or members are the individuals performing the personal
16 services, including, but not limited to, individual athletes,
17 entertainers, performers, or public speakers performing such personal
18 services, such compensation shall be deemed wages of the individuals
19 performing the personal services and subject to the income tax
20 imposed on individuals by the Nebraska Revenue Act of 1967.

21 (d) The withholding required by this subsection shall not
22 apply to any payment to a nonresident alien, corporation,
23 partnership, or limited liability company if such individual,
24 shareholder, partner, or member provides the payor with a statement
25 that the income earned is not subject to tax because of a treaty

1 obligation of the United States or if such payment is subject to
2 withholding under subsection (3) of this section.

3 (3)(a) ~~Every~~ For taxable years beginning or deemed to
4 begin before January 1, 2014, every contractor who is maintaining an
5 office or transacting business within this state and making a payment
6 or payments to any contractor or any person that is not an employee
7 for construction services performed within this state shall deduct
8 and withhold five percent of such payments.

9 (b) The withholding required by this subsection shall not
10 apply to any payment made to (i) a person that provides the payor
11 with a statement that the income earned is not subject to tax because
12 of a treaty obligation of the United States, (ii) a contractor if
13 such a payment or payments does not exceed six hundred dollars, or
14 (iii) a contractor when the payor contractor determines that the
15 payee contractor is in the data base required by section 48-2117.

16 (c) Any contractor who determines that a contractor is in
17 the data base is relieved from liability for withholding under this
18 subsection for any future payments on a contract in existence at the
19 time the determination is made or made during the same calendar year
20 as such determination is made.

21 (d) Withholding required by this subsection shall be
22 considered to be withholding of income tax for purposes of the
23 Nebraska Revenue Act of 1967.

24 (e) For purposes of this subsection:

25 (i) Construction services means services that are

1 provided as a contractor; and

2 (ii) Contractor has the same meaning as in section
3 48-2103.

4 (4) The Tax Commissioner may enter into agreements with
5 the tax departments of other states, which require income tax to be
6 withheld from the payment of wages, salaries, and such other
7 payments, so as to govern the amounts to be withheld from the wages
8 and salaries of and other payments to residents of such states. Such
9 agreements may provide for recognition of anticipated tax credits in
10 determining the amounts to be withheld and, under rules and
11 regulations adopted and promulgated by the Tax Commissioner, may
12 relieve employers and payors in this state from withholding income
13 tax on wages, salaries, and such other payments paid to nonresident
14 employees and payees. The agreements authorized by this subsection
15 shall be subject to the condition that the tax department of such
16 other states grant similar treatment to residents of this state.

17 (5) The Tax Commissioner shall enter into an agreement
18 with the United States Office of Personnel Management for the
19 withholding of income tax imposed on individuals by the Nebraska
20 Revenue Act of 1967 on civil service annuity payments for those
21 recipients who voluntarily request withholding. The agreement shall
22 be pursuant to 5 U.S.C. 8345 and the rules and regulations adopted
23 and promulgated by the Tax Commissioner.

24 (6) Wages and other payments subject to withholding shall
25 mean payments that are subject to withholding under the Internal

1 Revenue Code of 1986 and are (a) payments made by employers to
2 employees, except such payments subject to 26 U.S.C. 3406, (b)
3 payments of gambling winnings, (c) pension or annuity payments when
4 the recipient has requested the payor to withhold from such payments,
5 or (d) payments to independent contractors.

6 Sec. 29. Section 77-2754, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-2754 ~~Every~~ For taxable years beginning or deemed to
9 begin before January 1, 2014, every employer or payor, making payment
10 of wages or other payments subject to withholding, shall furnish to
11 each employee or payee in respect to the wages or payments paid by
12 such employer or payor to such employee or payee during the calendar
13 year on or before February 15 of the succeeding year, or, if his or
14 her employment is terminated before the close of such calendar year,
15 within thirty days from the date on which the last payment of wages
16 is made, a written statement as prescribed by the Tax Commissioner
17 showing the amount of wages or payments paid by the employer or payor
18 to the employee or payee, the amount deducted and withheld as tax,
19 and such other information as the Tax Commissioner shall prescribe.
20 Such statement shall be compatible as to form and content with the
21 statement required by the laws of the United States.

22 Sec. 30. Section 77-2755, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-2755 ~~Wages~~ For taxable years beginning or deemed to
25 begin before January 1, 2014, wages and payments upon which income

1 tax is required to be withheld shall be taxable under the provisions
2 of the Nebraska Revenue Act of 1967 as if no withholding were
3 required, but any amount of income tax actually deducted and withheld
4 under the provisions of such act in any calendar year shall be deemed
5 to have been paid to the Tax Commissioner on behalf of the person
6 from whom withheld, and such person shall be credited with having
7 paid that amount of income tax for the taxable year beginning in such
8 calendar year. For a taxable year of less than twelve months, the
9 credit shall be made under regulations of the Tax Commissioner.

10 Sec. 31. Section 77-2756, Revised Statutes Cumulative
11 Supplement, 2012, is amended to read:

12 77-2756 (1) ~~Except~~ For taxable years beginning or deemed
13 to begin before January 1, 2014, except as provided in subsection (2)
14 of this section, every employer or payor required to deduct and
15 withhold income tax under the Nebraska Revenue Act of 1967 shall, for
16 each calendar quarter, on or before the last day of the month
17 following the close of such calendar quarter, file a withholding
18 return as prescribed by the Tax Commissioner and pay over to the Tax
19 Commissioner or to a depository designated by the Tax Commissioner
20 the taxes so required to be deducted and withheld in such form and
21 content as the Tax Commissioner may prescribe and containing such
22 information as the Tax Commissioner deems necessary for the proper
23 administration of the Nebraska Revenue Act of 1967. When the
24 aggregate amount required to be deducted and withheld by any employer
25 or payor for either the first or second month of a calendar quarter

1 exceeds five hundred dollars, the employer or payor shall, by the
2 fifteenth day of the succeeding month, pay over such aggregate amount
3 to the Tax Commissioner or to a depository designated by the Tax
4 Commissioner. The amount so paid shall be allowed as a credit against
5 the liability shown on the employer's or payor's quarterly
6 withholding return required by this section. The Tax Commissioner
7 may, by rule and regulation, provide for the filing of returns and
8 the payment of the tax deducted and withheld on other than a
9 quarterly basis.

10 (2) ~~When~~ For taxable years beginning or deemed to begin
11 before January 1, 2014, when the aggregate amount required to be
12 deducted and withheld by any employer or payor for the entire
13 calendar year is less than five hundred dollars or the employer or
14 payor is allowed to file federal withholding returns annually, the
15 employer or payor shall, for each calendar year, on or before the
16 last day of the month following the close of such calendar year, file
17 a withholding return as prescribed by the Tax Commissioner and pay
18 over to the Tax Commissioner or to a depository designated by the Tax
19 Commissioner the taxes so required to be deducted and withheld in
20 such form and content as the Tax Commissioner may prescribe and
21 containing such information as the Tax Commissioner deems necessary
22 for the proper administration of the Nebraska Revenue Act of 1967.
23 The employer or payor may elect or the Tax Commissioner may require
24 the filing of returns and the payment of taxes on a quarterly basis.

25 (3) ~~Whenever~~ For taxable years beginning or deemed to

1 begin before January 1, 2014, whenever any employer or payor fails to
2 collect, truthfully account for, pay over, or make returns of the
3 income tax as required by this section, the Tax Commissioner may
4 serve a notice requiring such employer or payor to collect the taxes
5 which become collectible after service of such notice, to deposit
6 such taxes in a bank approved by the Tax Commissioner in a separate
7 account in trust for and payable to the Tax Commissioner, and to keep
8 the amount of such tax in such account until paid over to the Tax
9 Commissioner. Such notice shall remain in effect until a notice of
10 cancellation is served by the Tax Commissioner.

11 (4) ~~Any~~ For taxable years beginning or deemed to begin
12 before January 1, 2014, any employer or payor may appoint an agent in
13 accordance with section 3504 of the Internal Revenue Code of 1986, as
14 amended, for the purpose of withholding, reporting, or making payment
15 of amounts withheld on behalf of the employer or payor. The agent
16 shall be considered an employer or payor for purposes of the Nebraska
17 Revenue Act of 1967 and, with the actual employer or payor, shall be
18 jointly and severally liable for any amount required to be withheld
19 and paid over to the Tax Commissioner and any additions to tax,
20 penalties, and interest with respect thereto.

21 (5) ~~The~~ For taxable years beginning or deemed to begin
22 before January 1, 2014, the employer or payor shall also file on or
23 before February 1 of the succeeding year a copy of each statement
24 furnished by such employer or payor to each employee or payee with
25 respect to taxes withheld on wages or payments subject to

1 withholding. Any employer, payor, or agent who furnished more than
2 fifty statements for a year shall file the required copies
3 electronically in a manner approved by the Tax Commissioner that is
4 compatible with federal electronic filing requirements or methods.

5 Sec. 32. Section 77-2761, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 77-2761 ~~An~~ For taxable years beginning or deemed to begin
8 before January 1, 2014, an income tax return with respect to the
9 income tax imposed by the provisions of the Nebraska Revenue Act of
10 1967 shall be made by the following:

11 (1) Every resident individual who is required to file a
12 federal income tax return for the taxable year;

13 (2) Every nonresident individual who has income from
14 sources in this state;

15 (3) Every resident estate or trust which is required to
16 file a federal income tax return except a simple trust not required
17 to file under subsection (2) of section 77-2717;

18 (4) Every nonresident estate or trust which has taxable
19 income from sources within this state;

20 (5) Every corporation or any other entity taxed as a
21 corporation under the Internal Revenue Code which is required to file
22 a federal income tax return except the small business corporations
23 not required to file under subsection (7) of section 77-2734.01;

24 (6) Every limited liability company having one or more
25 nonresident members or with taxable income derived from sources

1 outside the state except the limited liability companies not required
2 to file under subsection (7) of section 77-2734.01; and

3 (7) Every partnership having one or more nonresident
4 partners or with taxable income derived from sources outside the
5 state.

6 Sec. 33. Section 77-2768, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-2768 ~~The~~ For taxable years beginning or deemed to
9 begin before January 1, 2014, the income tax return required by the
10 provisions of the Nebraska Revenue Act of 1967 shall be filed on or
11 before the dates prescribed by the laws of the United States for
12 filing federal income tax returns. A person required to make and file
13 an income tax return shall, without assessment, notice, or demand,
14 pay any tax due thereon to the Tax Commissioner on or before the date
15 fixed for filing such return, except that a tax amount due which is
16 less than two dollars need not be remitted. The Tax Commissioner
17 shall prescribe by regulation the place for filing any return,
18 declaration, statement, or other document required pursuant hereto
19 and for the payment of any tax.

20 Sec. 34. Section 77-2769, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-2769 (1) ~~Every~~ For taxable years beginning or deemed
23 to begin before January 1, 2014, every resident and nonresident
24 individual, corporation, and other entity taxed as a corporation
25 under the Internal Revenue Code shall pay the estimated tax for the

1 taxable year, in such form as the Tax Commissioner may prescribe,
2 except that (a) no payment of estimated tax is required by an
3 individual if the estimated tax can reasonably be expected to be less
4 than five hundred dollars and (b) no payment of estimated tax is
5 required by a corporation or other entity taxed as a corporation
6 under the Internal Revenue Code if the estimated tax can reasonably
7 be expected to be less than four hundred dollars.

8 (2)(a) Estimated tax for an individual shall mean the
9 amount which the individual estimates to be his or her income tax
10 under sections 77-2714 to 77-27,135 for the taxable year less the
11 amount which he or she estimates to be the sum of any credits
12 allowable.

13 (b) Estimated tax for a corporation or other entity taxed
14 as a corporation under the Internal Revenue Code shall mean the
15 amount which the corporation or business estimates to be its income
16 tax under sections 77-2714 to 77-27,135 for the taxable year less the
17 amount which is estimated to be the sum of any credits allowable.

18 (3) If they are eligible to do so for federal tax
19 purposes, a husband and wife may make a joint payment of estimated
20 tax as if they were one taxpayer, in which case the liability with
21 respect to the estimated tax shall be joint and several. If a joint
22 payment is made but husband and wife elect to determine their taxes
23 separately, the estimated tax for such year may be treated as the
24 estimated tax of either husband or wife, or may be divided between
25 them, as they may elect.

1 (4) The payment of estimated tax for an individual under
2 a disability shall be made and filed in the manner provided in
3 subsection (2) of section 77-2763 for an income tax return.

4 (5) The payment of estimated tax shall be paid on or
5 before the dates prescribed by the laws of the United States for
6 payment of estimated federal income tax, except that the Tax
7 Commissioner, by rule and regulation, may establish other dates for
8 payment of estimated tax.

9 (6) The application of this section to taxable years of
10 less than twelve months shall be in accordance with regulations
11 prescribed by the Tax Commissioner.

12 (7) Payment of the estimated income tax or any
13 installment thereof shall be considered payment on account of the
14 income tax imposed under sections 77-2714 to 77-27,135 for the
15 taxable year.

16 Sec. 35. Section 77-2769.01, Reissue Revised Statutes of
17 Nebraska, is amended to read:

18 77-2769.01 (1) ~~A-For taxable years beginning or deemed to~~
19 begin before January 1, 2014, a corporation may, after the close of
20 the taxable year and on or before the fifteenth day of the third
21 month thereafter and before the day on which it files a return for
22 such taxable year, file an application for an adjustment of an
23 overpayment by it of estimated income tax for such taxable year. An
24 application under this section shall not constitute a claim for
25 credit or refund. The application shall be filed in such manner and

1 form as the Tax Commissioner may prescribe by rules, regulations, and
2 instructions. The application shall set forth: (a) The estimated
3 income tax paid by the corporation during the taxable year; (b) the
4 amount which, at the time of filing the application, the corporation
5 estimates as its income tax liability for the taxable year; (c) the
6 amount of the requested adjustment; and (d) such other information
7 for purposes of carrying out this section as may be required by rules
8 and regulations.

9 (2) Within forty-five days from the date on which an
10 application for adjustment is filed, the Tax Commissioner shall make,
11 to the extent he or she deems practicable in such period, a limited
12 examination of the application to discover omissions and errors. The
13 Tax Commissioner shall determine the amount of the adjustment upon
14 the basis of the application and the examination. The Tax
15 Commissioner may disallow, without further action, any application
16 which he or she finds to contain material omissions or errors which
17 he or she deems cannot be corrected within such forty-five days. The
18 decision made by the Tax Commissioner shall be final and not subject
19 to further review.

20 (3) Upon approval of the application, the Tax
21 Commissioner, within the forty-five-day period, may credit the amount
22 of the adjustment against any existing tax liability on the part of
23 the corporation and shall refund the remainder to the corporation. No
24 application under this section shall be allowed unless the amount of
25 the adjustment equals or exceeds (a) ten percent of the amount

1 estimated by the corporation on its application as its income tax
2 liability for the taxable year and (b) five hundred dollars.

3 (4) Any adjustment under this section shall be treated as
4 a reduction in the estimated income tax paid, computed on the day the
5 credit is allowed or the refund is paid. Any credit or refund of an
6 adjustment shall be treated as if not made when determining (a)
7 whether there has been any underpayment of estimated income tax under
8 section 77-2790 and (b) if there is an underpayment, the period
9 during which the underpayment existed.

10 (5) For purposes of this section, income tax liability
11 shall mean the excess of the income tax imposed by sections 77-2714
12 to 77-27,135 reduced by the credits against the tax provided by state
13 law. The amount of an adjustment authorized under this section shall
14 be equal to the excess of the estimated income tax paid by the
15 corporation during the taxable year reduced by the amount which, at
16 the time of filing the application, the corporation estimates as its
17 income tax liability for the taxable year. A corporation seeking an
18 adjustment under this section, which paid its estimated income tax on
19 a consolidated basis or expects to make a consolidated return for the
20 taxable year, shall be subject to such conditions, limitations, and
21 exceptions as the Tax Commissioner may prescribe by rules,
22 regulations, and instructions.

23 (6) An excessive adjustment shall be equal to the smaller
24 of the amount of the adjustment or the amount by which the income tax
25 liability for the taxable year as shown on the return for the taxable

1 year exceeds the estimated income tax paid during the taxable year,
2 reduced by the amount of the adjustment. The amount of any excessive
3 adjustment made before the fifteenth day of the third month following
4 the close of the taxable year shall bear interest from the date on
5 which the adjustment was allowed to such fifteenth day at the rate
6 specified in section 45-104.02, as such rate may from time to time be
7 adjusted.

8 Sec. 36. Section 77-2770.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-2770.01 The provisions of sections 77-2768 and 77-2770
11 shall become operative for all taxable years commencing on and after
12 January 1, 1969, and before January 1, 2014.

13 Sec. 37. Section 77-2775, Reissue Revised Statutes of
14 Nebraska, is amended to read:

15 77-2775 (1) If the amount of a taxpayer's federal
16 adjusted gross income, taxable income, or tax liability reported on
17 his or her federal income tax return for any taxable year is changed
18 or corrected by the Internal Revenue Service or other competent
19 authority or as the result of a renegotiation of a contract or
20 subcontract with the United States, the taxpayer shall report such
21 change or correction in federal adjusted gross income, taxable
22 income, or tax liability within sixty days after the final
23 determination of such change, correction, or renegotiation.

24 (2) Whenever the amount of a taxpayer's income which is
25 taxable in any state for any taxable year or any tax credits

1 allowable in such state are changed or corrected in a way material to
2 the tax liability owed to this state by the agency having authority
3 to examine returns filed with such state or any other competent
4 authority or whenever an amended return is filed by any taxpayer with
5 a change or correction material to the tax liability owed to this
6 state with another state, such change or correction shall be reported
7 to the Tax Commissioner within sixty days after the final change or
8 correction or filing of the amended return. The Tax Commissioner
9 shall by rule and regulation provide the nature of any change or
10 correction which must be reported.

11 (3) The taxpayer shall report all changes or corrections
12 required to be reported under this section by filing an amended
13 income tax return and shall give such information as the Tax
14 Commissioner may require. The taxpayer shall concede the accuracy of
15 any change or correction or state why it is erroneous.

16 (4) Any taxpayer filing an amended federal income tax
17 return shall also file within sixty days thereafter an amended income
18 tax return under the Nebraska Revenue Act of 1967 and shall give such
19 information as the Tax Commissioner may require. For any amended
20 federal income tax return requesting a credit or refund, the amended
21 Nebraska income tax return shall be filed within sixty days after the
22 taxpayer has received proof of federal acceptance of the credit or
23 refund or within the time for filing an amended Nebraska income tax
24 return that would otherwise be applicable notwithstanding the amended
25 federal income tax return, whichever is later.

1 (5) For taxable years beginning or deemed to begin on or
2 after January 1, 2014, taxpayers are not required to file under this
3 section unless otherwise required by law.

4 Sec. 38. Section 77-27,188, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 77-27,188 (1) A ~~refundable~~—credit against the taxes
7 imposed by the Nebraska Revenue Act of 1967 shall be allowed to any
8 taxpayer who has an approved application pursuant to the Nebraska
9 Advantage Rural Development Act, who is engaged in a qualifying
10 business as described in section 77-27,189, and who after January 1,
11 2006:

12 (a)(i) Increases employment by two new equivalent
13 employees and makes an increased investment of at least one hundred
14 twenty-five thousand dollars prior to the end of the first taxable
15 year after the year in which the application was submitted in (A) any
16 county in this state with a population of fewer than fifteen thousand
17 inhabitants, according to the most recent federal decennial census,
18 (B) any village in this state, or (C) any area within the corporate
19 limits of a city of the metropolitan class consisting of one or more
20 contiguous census tracts, as determined by the most recent federal
21 decennial census, which contain a percentage of persons below the
22 poverty line of greater than thirty percent, and all census tracts
23 contiguous to such tract or tracts; or

24 (ii) Increases employment by five new equivalent
25 employees and makes an increased investment of at least two hundred

1 fifty thousand dollars prior to the end of the first taxable year
2 after the year in which the application was submitted in any county
3 in this state with a population of less than twenty-five thousand
4 inhabitants, according to the most recent federal decennial census,
5 or any city of the second class; and

6 (b) Pays a minimum qualifying wage of eight dollars and
7 twenty-five cents per hour to the new equivalent employees for which
8 tax credits are sought under the Nebraska Advantage Rural Development
9 Act. The Department of Revenue shall adjust the minimum qualifying
10 wages required for applications filed after January 1, 2004, and each
11 January 1 thereafter, as follows: The current rural Nebraska average
12 weekly wage shall be divided by the rural Nebraska average weekly
13 wage for 2003; and the result shall be multiplied by the eight
14 dollars and twenty-five cents minimum qualifying wage for 2003 and
15 rounded to the nearest one cent. The amount of increase or decrease
16 in the minimum qualifying wages for any year shall be the cumulative
17 change in the rural Nebraska average weekly wage since 2003. For
18 purposes of this subsection, rural Nebraska average weekly wage means
19 the most recent average weekly wage paid by all employers in all
20 counties with a population of less than twenty-five thousand
21 inhabitants as reported by October 1 by the Department of Labor.

22 For purposes of this section, a teleworker working in
23 Nebraska from his or her residence for a taxpayer shall be considered
24 an employee of the taxpayer, and property of the taxpayer provided to
25 the teleworker working in Nebraska from his or her residence shall be

1 considered an investment. Teleworker includes an individual working
2 on a per-item basis and an independent contractor working for the
3 taxpayer so long as the taxpayer withholds Nebraska income tax from
4 wages or other payments made to such teleworker. For purposes of
5 calculating the number of new equivalent employees when the
6 teleworkers are paid on a per-item basis or are independent
7 contractors, the total wages or payments made to all such new
8 employees during the year shall be divided by the qualifying wage as
9 determined in subdivision (b) of this subsection, with the result
10 divided by two thousand eighty hours.

11 (2) A ~~refundable~~ credit against the taxes imposed by the
12 Nebraska Revenue Act of 1967 shall be allowed to any taxpayer who (a)
13 has an approved application pursuant to the Nebraska Advantage Rural
14 Development Act, (b) is engaged in livestock production, and (c)
15 after January 1, 2007, invests at least fifty thousand dollars for
16 livestock modernization or expansion.

17 (3) The amount of the credit allowed under subsection (1)
18 of this section shall be three thousand dollars for each new
19 equivalent employee and two thousand seven hundred fifty dollars for
20 each fifty thousand dollars of increased investment. The amount of
21 the credit allowed under subsection (2) of this section shall be ten
22 percent of the investment, not to exceed a credit of thirty thousand
23 dollars. For each application, a taxpayer engaged in livestock
24 production may qualify for a credit under either subsection (1) or
25 (2) of this section, but cannot qualify for more than one credit per

1 application.

2 (4) An employee of a qualified employee leasing company
3 shall be considered to be an employee of the client-lessee for
4 purposes of this section if the employee performs services for the
5 client-lessee. A qualified employee leasing company shall provide the
6 Department of Revenue access to the records of employees leased to
7 the client-lessee.

8 (5) The credit shall not exceed the amounts set out in
9 the application and approved by the Tax Commissioner.

10 (6)(a) If a taxpayer who receives tax credits creates
11 fewer jobs or less investment than required in the project agreement,
12 the taxpayer shall repay the tax credits as provided in this
13 subsection.

14 (b) If less than seventy-five percent of the required
15 jobs in the project agreement are created, one hundred percent of the
16 job creation tax credits shall be repaid. If seventy-five percent or
17 more of the required jobs in the project agreement are created, no
18 repayment of the job creation tax credits is necessary.

19 (c) If less than seventy-five percent of the required
20 investment in the project agreement is created, one hundred percent
21 of the investment tax credits shall be repaid. If seventy-five
22 percent or more of the required investment in the project agreement
23 is created, no repayment of the investment tax credits is necessary.

24 (7) For taxpayers who submitted applications for benefits
25 under the Nebraska Advantage Rural Development Act before January 1,

1 2006, subsection (1) of this section, as such subsection existed
2 immediately prior to such date, shall continue to apply to such
3 taxpayers. The changes made by Laws 2005, LB 312, shall not preclude
4 a taxpayer from receiving the tax incentives earned prior to January
5 1, 2006.

6 Sec. 39. Section 77-27,188.01, Reissue Revised Statutes
7 of Nebraska, is amended to read:

8 77-27,188.01 (1) The credit allowed under section
9 77-27,188 may be used to obtain a refund of state sales and use taxes
10 paid or, for taxable years beginning or deemed to begin before
11 January 1, 2014, against the income tax liability of the taxpayer or
12 may be used for taxable years beginning or deemed to begin before
13 January 1, 2014, as a refundable credit claimed on an income tax
14 return of the taxpayer. The return need not reflect any income tax
15 liability owed by the taxpayer.

16 (2) A claim for the credit may be filed quarterly for
17 refund of the state sales and use taxes paid, either directly or
18 indirectly, after the filing of the income tax return for the taxable
19 year in which the credit was first allowed.

20 (3) The credit may be used to obtain a refund of state
21 sales and use taxes paid before the end of the taxable year for which
22 the credit was allowed, except that the amount refunded under this
23 subsection shall not exceed the amount of the state sales and use
24 taxes paid, either directly or indirectly, by the taxpayer on the
25 qualifying investment.

1 (4) For purposes of subsections (2) and (3) of this
2 section, the taxpayer shall be deemed to have paid indirectly any
3 state sales or use taxes paid by a contractor on building materials
4 annexed to an improvement to real estate built for the taxpayer. The
5 contractor shall certify to the taxpayer the amount of the Nebraska
6 state sales and use taxes paid on the building materials, or the
7 taxpayer, with the permission of the Tax Commissioner and a
8 certification from the contractor that Nebraska state sales and use
9 taxes were paid on all building materials, may presume that fifty
10 percent of the cost of the improvement was for building materials
11 annexed to real estate on which the tax was paid.

12 (5) No claim for refund of sales and use taxes under this
13 section may be filed prior to January 1, 1989.

14 (6) Credits distributed to a partner, limited liability
15 company member, shareholder, or beneficiary under section 77-27,194
16 may be used against the income tax liability of the partner, member,
17 shareholder, or beneficiary receiving the credits for taxable years
18 beginning or deemed to begin before January 1, 2014.

19 (7) For taxpayers who met the job and investment
20 thresholds of the Employment Expansion and Investment Incentive Act
21 for a tax year beginning before January 1, 2004, subsection (6) of
22 this section and subdivision (1)(b) of section 77-27,188, as such
23 section existed immediately prior to such date, shall continue to
24 apply to such taxpayer. The changes made by Laws 2003, LB 608, shall
25 not preclude a taxpayer from receiving the tax incentives earned

1 prior to January 1, 2004.

2 Sec. 40. Any refundable or nonrefundable income tax
3 credit authorized for any individual, estate or trust, or corporation
4 or any other entity taxed as a corporation under the Internal Revenue
5 Code of 1986, as amended, shall be applied to the tax liability of
6 such individual, estate or trust, or corporation or other entity
7 taxed as a corporation under the Internal Revenue Code of 1986, as
8 amended, for only taxable years beginning or deemed to begin before
9 January 1, 2014, unless otherwise specifically provided by law. For
10 taxable years beginning on or after January 1, 2014, no refundable or
11 nonrefundable income tax credits will be allowed.

12 Sec. 41. Section 77-3802, Reissue Revised Statutes of
13 Nebraska, is amended to read:

14 77-3802 (1) ~~There~~ For taxable years beginning or deemed
15 to begin before January 1, 2014, there is hereby imposed for each
16 taxable year for the privilege of doing business in this state a
17 franchise tax on all financial institutions with business locations
18 in this state. Such franchise tax shall be based on the average
19 deposits of the financial institution.

20 (2) The amount of the tax imposed by this section shall
21 be the number of cents, as determined by section 77-3803, multiplied
22 by the amount of average deposits of the financial institution in
23 thousands of dollars.

24 (3) The franchise tax imposed by this section shall not
25 exceed the limitation amount prescribed in section 77-3804.

1 (4) Each financial institution shall file a separate
2 franchise tax return.

3 Sec. 42. Section 77-4106, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 77-4106 (1)(a) The credits prescribed in section 77-4105
6 shall be established by filing the forms required by the Tax
7 Commissioner with the income tax return for the year. ~~The For taxable~~
8 years beginning or deemed to begin before January 1, 2014, the
9 credits may be used after any other nonrefundable credits to reduce
10 the taxpayer's income tax liability imposed by sections 77-2714 to
11 77-27,135. The credits may be used to obtain a refund of sales and
12 use taxes under the Nebraska Revenue Act of 1967, the Local Option
13 Revenue Act, and sections 13-319, 13-324, and 13-2813 which are not
14 otherwise refundable that are paid on purchases, including rentals,
15 for use at the project.

16 (b) The credits may be used as allowed in subdivision (a)
17 of this subsection and shall be applied in the order in which they
18 were first allowed. Any decision on how part of the credit is applied
19 shall not limit how the remaining credit could be applied under this
20 section.

21 (c) The credit may be carried over until fully utilized,
22 except that such credit may not be carried over more than eight years
23 after the end of the entitlement period.

24 (2)(a) No refund claims shall be filed until after the
25 required levels of employment and investment have been met.

1 (b) Refund claims shall be filed no more than once each
2 quarter for refunds under the Employment and Investment Growth Act,
3 except that any claim for a refund in excess of twenty-five thousand
4 dollars may be filed at any time.

5 (c) Any refund claim for sales and use tax on materials
6 incorporated into real estate as a part of the project shall be filed
7 by and the refund paid to the owner of the improvement to real
8 estate. A refund claim for such materials purchased by a purchasing
9 agent shall include a copy of the purchasing agent appointment, the
10 contract price, and a certification by the contractor or repairperson
11 of the percentage of the materials incorporated into the project on
12 which sales and use taxes were paid to Nebraska after appointment as
13 purchasing agent.

14 (d) All refund claims shall be filed, processed, and
15 allowed as any other claim under section 77-2708, except that the
16 amounts allowed to be refunded under the Employment and Investment
17 Growth Act shall be deemed to be overpayments and shall be refunded
18 notwithstanding any limitation in subdivision (2)(a) of section
19 77-2708. The refund may be allowed if the claim is filed within three
20 calendar years from the end of the year the required levels of
21 employment and investment are met or within the period set forth in
22 section 77-2708.

23 (e) Interest shall not be allowed on any sales and use
24 taxes refunded under the Employment and Investment Growth Act.

25 (3) The appointment of purchasing agents shall be

1 recognized for the purpose of changing the status of a contractor or
2 repairperson as the ultimate consumer of tangible personal property
3 purchased after the date of the appointment which is physically
4 incorporated into the project and becomes the property of the owner
5 of the improvement to real estate. The purchasing agent shall be
6 jointly liable for the payment of the sales and use tax on the
7 purchases with the owner of the improvement to real estate.

8 Sec. 43. Section 77-5209.01, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-5209.01 ~~A~~ For taxable years beginning or deemed to
11 begin before January 1, 2014, a qualified beginning farmer or
12 livestock producer in the first, second, or third year of a
13 qualifying three-year rental agreement shall be allowed a one-time
14 credit to be applied against the state income tax liability of such
15 individual for the cost of participation in the financial management
16 program required for eligibility under section 77-5209. The amount of
17 the credit shall be the actual cost of participation in an approved
18 program incurred during the tax year for which the credit is claimed,
19 up to a maximum of five hundred dollars.

20 Sec. 44. Section 77-5211, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 77-5211 (1) Except as otherwise disallowed under
23 subsection (5) of this section, for taxable years beginning or deemed
24 to begin before January 1, 2014, an owner of agricultural assets
25 shall be allowed a credit to be applied against the state income tax

1 liability of such owner for agricultural assets rented on a rental
2 agreement basis, including cash rent of agricultural assets or cash
3 equivalent of a share-rent rental, to qualified beginning farmers or
4 livestock producers. Such asset shall be rented at prevailing
5 community rates as determined by the board.

6 (2) The credit allowed shall be for renting agricultural
7 assets used for farming or livestock production. Such credit shall be
8 granted by the Department of Revenue only after approval and
9 certification by the board and a written three-year rental agreement
10 for such assets is entered into between an owner of agricultural
11 assets and a qualified beginning farmer or livestock producer. An
12 owner of agricultural assets or qualified beginning farmer or
13 livestock producer may terminate such agreement for reasonable cause
14 upon approval by the board. If an agreement is terminated without
15 fault on the part of the owner of agricultural assets as determined
16 by the board, the tax credit shall not be retroactively disallowed.
17 If an agreement is terminated with fault on the part of the owner of
18 agricultural assets as determined by the board, any prior tax credits
19 claimed by such owner shall be disallowed and recaptured and shall be
20 immediately due and payable to the State of Nebraska.

21 (3) A credit may be granted to an owner of agricultural
22 assets for renting agricultural assets, including cash rent of
23 agricultural assets or cash equivalent of a share-rent agreement, to
24 any qualified beginning farmer or livestock producer for a period of
25 three years. An owner of agricultural assets shall not be eligible

1 for further credits under the Beginning Farmer Tax Credit Act unless
2 the rental agreement is terminated prior to the end of the three-year
3 period through no fault of the owner of agricultural assets. If the
4 board finds that such a termination was not the fault of the owner of
5 agricultural assets, it may approve the owner for credits arising
6 from a subsequent qualifying rental agreement with a different
7 qualified beginning farmer or livestock producer.

8 (4) Any credit allowable to a partnership, a corporation,
9 a limited liability company, or an estate or trust may be distributed
10 to the partners, members, shareholders, or beneficiaries. Any credit
11 distributed shall be distributed in the same manner as income is
12 distributed.

13 (5) The credit allowed under this section shall not be
14 allowed to an owner of agricultural assets for a rental agreement
15 with a beginning farmer or livestock producer who is a relative, as
16 defined in section 36-702, of the owner of agricultural assets or of
17 a partner, member, shareholder, or trustee of the owner of
18 agricultural assets unless the rental agreement is included in a
19 written succession plan. Such succession plan shall be in the form of
20 a written contract or other instrument legally binding the parties to
21 a process and timetable for the transfer of agricultural assets from
22 the owner of agricultural assets to the beginning farmer or livestock
23 producer. The succession plan shall provide for the transfer of
24 assets to be completed within a period of no longer than thirty
25 years, except that when the asset to be transferred is land owned by

1 an individual, the period of transfer may be for a period up to the
2 date of death of the owner. The owner of agricultural assets shall be
3 allowed the credit provided for qualified rental agreements under
4 this section if the board certifies the plan as providing a
5 reasonable manner and probability of successful transfer.

6 Sec. 45. Section 77-5531, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 77-5531 (1) The policy of the state in adopting the
9 Invest Nebraska Act is to encourage new businesses to relocate to and
10 existing businesses to expand in Nebraska and to provide appropriate
11 inducements to encourage new and existing businesses to do so.
12 Depending on the nature of the company and its employees, the state
13 recognizes the inducements contained in the act may be more
14 appropriate and administratively more convenient and efficient for
15 the state, the company, and the employees, if the wage benefit credit
16 is charged against the company's income tax or the company's
17 withholding tax rather than individually computed and used against
18 each employee's income tax. Therefor, if the company uses the wage
19 benefit credit for company training programs, employee benefit
20 programs, educational institution training programs, or company
21 workplace safety programs, or any combination thereof, as determined
22 by the company as otherwise provided for in the act and if the board
23 has approved the project application, then after entering into an
24 agreement with the state, the company shall be allowed a wage benefit
25 credit to be determined, used, and calculated as provided in this

1 section.

2 (2) In order to help relieve the burden to government and
 3 to help promote the general welfare of citizens, the wage benefit
 4 credit used by the company shall be paid or applied by the company
 5 for company training programs, employee benefit programs, educational
 6 institution training programs, or company workplace safety programs,
 7 or any combination thereof, as determined by the company. Such use of
 8 the wage benefit credit is declared as a matter of policy to be for a
 9 public purpose. Nothing in this section shall be construed to limit
 10 the right of an employee or employees subject to a collective
 11 bargaining agreement to negotiate relative to such programs.

12 (3) The wage benefit credit shall be an amount equal to
 13 the percentage specified in subsection (4) of this section multiplied
 14 by the amount of the total compensation paid during each project year
 15 to employees of the company while employed at the project, other than
 16 base-year employees, who have been paid compensation for such year by
 17 the company of at least the minimum amount required for such project
 18 under section 77-5536.

19 (4) The percentage used to determine the wage benefit
 20 credit shall be:

21	If the average	But not over	Then the credit
22	compensation for the		percentage
23	project year is over		shall be
24	\$0	\$20,000	0%

1	\$20,000	\$30,000	3%
2	\$30,000	\$40,000	4%
3	\$40,000		5%

4 For purposes of determining the credit percentage for
5 each respective project year, average compensation means the total
6 compensation paid during the project year to all employees employed
7 at the project regardless of their level of compensation divided by
8 the total number of equivalent employees employed at the project
9 during the project year regardless of their level of compensation.

10 (5) The wage benefit credit shall be allowed for each
11 project year.

12 (6) The wage benefit credit shall be established by
13 filing the forms required by the Tax Commissioner with the income tax
14 return for the year. The credit may be used to reduce the company's
15 Nebraska income tax liability for taxable years beginning or deemed
16 to begin before January 1, 2014.

17 (7) ~~The~~ For taxable years beginning or deemed to begin
18 before January 1, 2014, the company shall also be entitled to use all
19 or such part as determined by the company of the wage benefit credits
20 previously established under this section to reduce the company's
21 income tax withholding employer or payor tax liability under section
22 77-2756 or 77-2757 for succeeding years to the extent such liability
23 is attributable to employees who are employed at the project covered
24 by the agreement other than base-year employees. To the extent of the
25 credit so claimed, such withholding shall not constitute public funds

1 or state tax revenue and shall not constitute a trust fund or be
2 owned by the state. In order to help achieve the public purposes of
3 the Invest Nebraska Act, the use by the company of the wage benefit
4 credits to reduce such income tax withholding tax liability shall not
5 change the amount that otherwise would be reported by the company to
6 the employee under section 77-2754 as income tax withheld and shall
7 not reduce the amount that otherwise would be allowed by the state as
8 a refundable credit on an employee's income tax return as income tax
9 withheld under section 77-2755.

10 (8) The use of the wage benefit credit total as a credit
11 against income tax withholding tax liability for the project per year
12 shall not exceed five percent of the total compensation paid by the
13 company in the year to all employees, other than base-year employees,
14 for services rendered in connection with the project. If such use of
15 the wage benefit credit exceeds such amount, the excess shall be
16 returned to the Department of Revenue in the manner provided in
17 section 77-2756.

18 (9) The credits shall be applied in the order in which
19 they were first allowed. Any decision on how part of the credit is
20 applied shall not limit how the remaining credit can be applied under
21 this section. The credit may be carried over until fully utilized,
22 except that the credit may not be carried over more than eight years
23 after the end of the entitlement period. If a credit is subsequently
24 recaptured under section 77-5538, the credit shall be treated as if
25 it had never been allowed.

1 (10) The wage benefit credit shall not be transferable,
2 except that any credit to be taken against the income tax liability
3 of the company and allowable to a partnership, a limited liability
4 company, a subchapter S corporation, a cooperative, a joint venture,
5 or an estate or trust may be distributed to the partners, members,
6 shareholders, patrons, owners, or beneficiaries in the same manner as
7 income is distributed for use against their income tax liabilities.

8 Sec. 46. Section 77-5708, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 77-5708 Entitlement period, ~~for a tier 1 or tier 3~~
11 ~~project,~~ means the year during which the required increases in
12 employment and investment were met or exceeded and each year
13 thereafter until the end of the ~~ninth year following the year of~~
14 ~~application or the sixth~~ fourth year after the year the required
15 increases were met or exceeded. ~~, whichever is sooner. Entitlement~~
16 ~~period, for a tier 2, tier 4, or tier 5 project, means the year~~
17 ~~during which the required increases in employment and investment were~~
18 ~~met or exceeded and each year thereafter until the end of the sixth~~
19 ~~year after the year the required increases were met or exceeded.~~
20 Entitlement period, for a tier 6 project, means the year during which
21 the required increases in employment and investment were met or
22 exceeded and each year thereafter until the end of the ninth year
23 after the year the required increases were met or exceeded.

24 Sec. 47. Section 77-5723, Revised Statutes Cumulative
25 Supplement, 2012, is amended to read:

1 77-5723 (1) In order to utilize the incentives set forth
2 in the Nebraska Advantage Act, the taxpayer shall file an
3 application, on a form developed by the Tax Commissioner, requesting
4 an agreement with the Tax Commissioner.

5 (2) The application shall contain:

6 (a) A written statement describing the plan of employment
7 and investment for a qualified business in this state;

8 (b) Sufficient documents, plans, and specifications as
9 required by the Tax Commissioner to support the plan and to define a
10 project;

11 (c) If more than one location within this state is
12 involved, sufficient documentation to show that the employment and
13 investment at different locations are interdependent parts of the
14 plan. A headquarters shall be presumed to be interdependent with each
15 other location directly controlled by such headquarters. A showing
16 that the parts of the plan would be considered parts of a unitary
17 business for corporate income tax purposes shall not be sufficient to
18 show interdependence for the purposes of this subdivision;

19 (d) A nonrefundable application fee of one thousand
20 dollars for a tier 1 project, two thousand five hundred dollars for a
21 tier 2, tier 3, or tier 5 project, five thousand dollars for a tier 4
22 project, and ten thousand dollars for a tier 6 project. The fee shall
23 be credited to the Nebraska Incentives Fund; and

24 (e) A timetable showing the expected sales tax refunds
25 and what year they are expected to be claimed. The timetable shall

1 include both direct refunds due to investment and credits taken as
2 sales tax refunds as accurately as possible.

3 The application and all supporting information shall be
4 confidential except for the name of the taxpayer, the location of the
5 project, the amounts of increased employment and investment, and the
6 information required to be reported by sections 77-5731 and 77-5734.

7 (3) An application must be complete to establish the date
8 of the application. An application shall be considered complete once
9 it contains the items listed in subsection (2) of this section,
10 regardless of the Tax Commissioner's additional needs pertaining to
11 information or clarification in order to approve or not approve the
12 application.

13 (4) Once satisfied that the plan in the application
14 defines a project consistent with the purposes stated in the Nebraska
15 Advantage Act in one or more qualified business activities within
16 this state, that the taxpayer and the plan will qualify for benefits
17 under the act, and that the required levels of employment and
18 investment for the project will be met prior to the end of the fourth
19 year after the year in which the application was submitted for a tier
20 ~~1, tier 3, or tier 6 project, or the end of the sixth year after the~~
21 ~~year in which the application was submitted for a tier 2, tier 4, or~~
22 ~~tier 5 project,~~ the Tax Commissioner shall approve the application.
23 For a tier 5 project that is sequential to a tier 2 large data center
24 project, the required level of investment shall be met prior to the
25 end of the fourth year after the expiration of the tier 2 large data

1 center project entitlement period relating to direct sales tax
2 refunds.

3 (5) After approval, the taxpayer and the Tax Commissioner
4 shall enter into a written agreement. The taxpayer shall agree to
5 complete the project, and the Tax Commissioner, on behalf of the
6 State of Nebraska, shall designate the approved plan of the taxpayer
7 as a project and, in consideration of the taxpayer's agreement, agree
8 to allow the taxpayer to use the incentives contained in the Nebraska
9 Advantage Act. The application, and all supporting documentation, to
10 the extent approved, shall be considered a part of the agreement. The
11 agreement shall state:

12 (a) The levels of employment and investment required by
13 the act for the project;

14 (b) The time period under the act in which the required
15 levels must be met;

16 (c) The documentation the taxpayer will need to supply
17 when claiming an incentive under the act;

18 (d) The date the application was filed; and

19 (e) A requirement that the company update the Department
20 of Revenue annually on any changes in plans or circumstances which
21 affect the timetable of sales tax refunds as set out in the
22 application. If the company fails to comply with this requirement,
23 the Tax Commissioner may defer any pending sales tax refunds until
24 the company does comply.

25 (6) The incentives contained in section 77-5725 shall be

1 in lieu of the tax credits allowed by the Nebraska Advantage Rural
2 Development Act for any project. In computing credits under the act,
3 any investment or employment which is eligible for benefits or used
4 in determining benefits under the Nebraska Advantage Act shall be
5 subtracted from the increases computed for determining the credits
6 under section 77-27,188. New investment or employment at a project
7 location that results in the meeting or maintenance of the employment
8 or investment requirements, the creation of credits, or refunds of
9 taxes under the Employment and Investment Growth Act shall not be
10 considered new investment or employment for purposes of the Nebraska
11 Advantage Act. The use of carryover credits under the Employment and
12 Investment Growth Act, the Invest Nebraska Act, the Nebraska
13 Advantage Rural Development Act, or the Quality Jobs Act shall not
14 preclude investment and employment from being considered new
15 investment or employment under the Nebraska Advantage Act. The use of
16 property tax exemptions at the project under the Employment and
17 Investment Growth Act shall not preclude investment not eligible for
18 the property tax exemption from being considered new investment under
19 the Nebraska Advantage Act.

20 (7) A taxpayer and the Tax Commissioner may enter into
21 agreements for more than one project and may include more than one
22 project in a single agreement. The projects may be either sequential
23 or concurrent. A project may involve the same location as another
24 project. No new employment or new investment shall be included in
25 more than one project for either the meeting of the employment or

1 investment requirements or the creation of credits. When projects
2 overlap and the plans do not clearly specify, then the taxpayer shall
3 specify in which project the employment or investment belongs.

4 (8) The taxpayer may request that an agreement be
5 modified if the modification is consistent with the purposes of the
6 act and does not require a change in the description of the project.
7 An agreement may not be modified to a tier that would grant a higher
8 level of benefits to the taxpayer or to a tier 1 project. Once
9 satisfied that the modification to the agreement is consistent with
10 the purposes stated in the act, the Tax Commissioner and taxpayer may
11 amend the agreement. For a tier 6 project, the taxpayer must agree to
12 limit the project to qualified activities allowable under tier 2 and
13 tier 4.

14 Sec. 48. Section 77-5725, Revised Statutes Cumulative
15 Supplement, 2012, is amended to read:

16 77-5725 (1) Applicants may qualify for benefits under the
17 Nebraska Advantage Act in one of six tiers:

18 (a) Tier 1, investment in qualified property of at least
19 one million dollars and the hiring of at least ten new employees.
20 There shall be no new project applications for benefits under this
21 tier filed after December 31, 2015, without further authorization of
22 the Legislature. All complete project applications filed on or before
23 December 31, 2015, shall be considered by the Tax Commissioner and
24 approved if the project and taxpayer qualify for benefits. Agreements
25 may be executed with regard to completed project applications filed

1 on or before December 31, 2015. All project agreements pending,
2 approved, or entered into before such date shall continue in full
3 force and effect;

4 (b) Tier 2, (i) investment in qualified property of at
5 least three million dollars and the hiring of at least thirty new
6 employees or (ii) for a large data center project, investment in
7 qualified property for the data center of at least two hundred
8 million dollars and the hiring for the data center of at least thirty
9 new employees;

10 (c) Tier 3, the hiring of at least thirty new employees.
11 There shall be no new project applications for benefits under this
12 tier filed after December 31, 2015, without further authorization of
13 the Legislature. All complete project applications filed on or before
14 December 31, 2015, shall be considered by the Tax Commissioner and
15 approved if the project and taxpayer qualify for benefits. Agreements
16 may be executed with regard to completed project applications filed
17 on or before December 31, 2015. All project agreements pending,
18 approved, or entered into before such date shall continue in full
19 force and effect;

20 (d) Tier 4, investment in qualified property of at least
21 ten million dollars and the hiring of at least one hundred new
22 employees;

23 (e) Tier 5, investment in qualified property of at least
24 thirty million dollars. Failure to maintain an average number of
25 equivalent employees as defined in section 77-5727 greater than or

1 equal to the number of equivalent employees in the base year shall
2 result in a partial recapture of benefits; and

3 (f) Tier 6, investment in qualified property of at least
4 ten million dollars and the hiring of at least seventy-five new
5 employees or the investment in qualified property of at least one
6 hundred million dollars and the hiring of at least fifty new
7 employees. Agreements may be executed with regard to completed
8 project applications filed before January 1, 2016. All project
9 agreements pending, approved, or entered into before such date shall
10 continue in full force and effect.

11 (2) When the taxpayer has met the required levels of
12 employment and investment contained in the agreement for a tier 1,
13 tier 2, tier 4, tier 5, or tier 6 project, the taxpayer shall be
14 entitled to the following incentives:

15 (a) A refund of all sales and use taxes for a tier 2,
16 tier 4, tier 5, or tier 6 project or a refund of one-half of all
17 sales and use taxes for a tier 1 project paid under the Local Option
18 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,
19 13-324, and 13-2813 from the date of the application through the
20 meeting of the required levels of employment and investment for all
21 purchases, including rentals, of:

22 (i) Qualified property used as a part of the project;

23 (ii) Property, excluding motor vehicles, based in this
24 state and used in both this state and another state in connection
25 with the project except when any such property is to be used for

1 fundraising for or for the transportation of an elected official;

2 (iii) Tangible personal property by a contractor or
3 repairperson after appointment as a purchasing agent of the owner of
4 the improvement to real estate when such property is incorporated
5 into real estate as a part of a project. The refund shall be based on
6 fifty percent of the contract price, excluding any land, as the cost
7 of materials subject to the sales and use tax;

8 (iv) Tangible personal property by a contractor or
9 repairperson after appointment as a purchasing agent of the taxpayer
10 when such property is annexed to, but not incorporated into, real
11 estate as a part of a project. The refund shall be based on the cost
12 of materials subject to the sales and use tax that were annexed to
13 real estate; and

14 (v) Tangible personal property by a contractor or
15 repairperson after appointment as a purchasing agent of the taxpayer
16 when such property is both (A) incorporated into real estate as a
17 part of a project and (B) annexed to, but not incorporated into, real
18 estate as a part of a project. The refund shall be based on fifty
19 percent of the contract price, excluding any land, as the cost of
20 materials subject to the sales and use tax; and

21 (b) A refund of all sales and use taxes for a tier 2,
22 tier 4, tier 5, or tier 6 project or a refund of one-half of all
23 sales and use taxes for a tier 1 project paid under the Local Option
24 Revenue Act, the Nebraska Revenue Act of 1967, and sections 13-319,
25 13-324, and 13-2813 on the types of purchases, including rentals,

1 listed in subdivision (a) of this subsection for such taxes paid
2 during each year of the entitlement period in which the taxpayer is
3 at or above the required levels of employment and investment.

4 (3) Any taxpayer who qualifies for a tier 1, tier 2, tier
5 3, or tier 4 project shall be entitled to a credit equal to three
6 percent times the average wage of new employees times the number of
7 new employees if the average wage of the new employees equals at
8 least sixty percent of the Nebraska average annual wage for the year
9 of application. The credit shall equal four percent times the average
10 wage of new employees times the number of new employees if the
11 average wage of the new employees equals at least seventy-five
12 percent of the Nebraska average annual wage for the year of
13 application. The credit shall equal five percent times the average
14 wage of new employees times the number of new employees if the
15 average wage of the new employees equals at least one hundred percent
16 of the Nebraska average annual wage for the year of application. The
17 credit shall equal six percent times the average wage of new
18 employees times the number of new employees if the average wage of
19 the new employees equals at least one hundred twenty-five percent of
20 the Nebraska average annual wage for the year of application. For
21 computation of such credit:

22 (a) Average annual wage means the total compensation paid
23 to employees during the year at the project who are not base-year
24 employees and who are paid wages equal to at least sixty percent of
25 the Nebraska average weekly wage for the year of application,

1 excluding any compensation in excess of one million dollars paid to
2 any one employee during the year, divided by the number of equivalent
3 employees making up such total compensation;

4 (b) Average wage of new employees means the average
5 annual wage paid to employees during the year at the project who are
6 not base-year employees and who are paid wages equal to at least
7 sixty percent of the Nebraska average weekly wage for the year of
8 application, excluding any compensation in excess of one million
9 dollars paid to any one employee during the year; and

10 (c) Nebraska average annual wage means the Nebraska
11 average weekly wage times fifty-two.

12 (4) Any taxpayer who qualifies for a tier 6 project shall
13 be entitled to a credit equal to ten percent times the total
14 compensation paid to all employees, other than base-year employees,
15 excluding any compensation in excess of one million dollars paid to
16 any one employee during the year, employed at the project.

17 (5) ~~Any~~ Except for a tier 3 or a tier 5 project, any
18 taxpayer who has met the required levels of employment and investment
19 for a tier 2 or tier 4 project shall receive a credit equal to ten
20 five percent of the investment made in qualified property at the
21 project. ~~Any taxpayer who has met the required levels of investment~~
22 ~~and employment for a tier 1 project shall receive a credit equal to~~
23 ~~three percent of the investment made in qualified property at the~~
24 ~~project. Any taxpayer who has met the required levels of investment~~
25 ~~and employment for a tier 6 project shall receive a credit equal to~~

1 ~~fifteen percent of the investment made in qualified property at the~~
2 ~~project.~~

3 (6) The credits prescribed in subsections (3), (4), and
4 (5) of this section shall be allowable for compensation paid and
5 investments made during each year of the entitlement period that the
6 taxpayer is at or above the required levels of employment and
7 investment.

8 (7) The credit prescribed in subsection (5) of this
9 section shall also be allowable during the first year of the
10 entitlement period for investment in qualified property at the
11 project after the date of the application and before the required
12 levels of employment and investment were met.

13 (8)(a) Property described in subdivisions (8)(c)(i)
14 through (v) of this section used in connection with a project or
15 projects and acquired by the taxpayer, whether by lease or purchase,
16 after the date the application was filed, shall constitute separate
17 classes of property and are eligible for exemption under the
18 conditions and for the time periods provided in subdivision (8)(b) of
19 this section.

20 (b)(i) A taxpayer who has met the required levels of
21 employment and investment for a tier 4 project shall receive the
22 exemption of property in subdivisions (8)(c)(ii), (iii), and (iv) of
23 this section. A taxpayer who has met the required levels of
24 employment and investment for a tier 6 project shall receive the
25 exemption of property in subdivisions (8)(c)(ii), (iii), (iv), and

1 (v) of this section. Such property shall be eligible for the
2 exemption from the first January 1 following the end of the year
3 during which the required levels were exceeded through the ninth
4 December 31 after the first year property included in subdivisions
5 (8)(c)(ii), (iii), (iv), and (v) of this section qualifies for the
6 exemption.

7 (ii) A taxpayer who has filed an application that
8 describes a tier 2 large data center project or a project under tier
9 4 or tier 6 shall receive the exemption of property in subdivision
10 (8)(c)(i) of this section beginning with the first January 1
11 following the acquisition of the property. The exemption shall
12 continue through the end of the period property included in
13 subdivisions (8)(c)(ii), (iii), (iv), and (v) of this section
14 qualifies for the exemption.

15 (iii) A taxpayer who has filed an application that
16 describes a tier 2 large data center project or a tier 5 project that
17 is sequential to a tier 2 large data center project for which the
18 entitlement period has expired shall receive the exemption of all
19 property in subdivision (8)(c) of this section beginning any January
20 1 after the acquisition of the property. Such property shall be
21 eligible for exemption from the tax on personal property from the
22 January 1 preceding the first claim for exemption approved under this
23 subdivision through the ninth December 31 after the year the first
24 claim for exemption is approved.

25 (iv) A taxpayer who has a project for an Internet web

1 portal or a data center and who has met the required levels of
2 employment and investment for a tier 2 project or the required level
3 of investment for a tier 5 project, taking into account only the
4 employment and investment at the web portal or data center project,
5 shall receive the exemption of property in subdivision (8)(c)(ii) of
6 this section. Such property shall be eligible for the exemption from
7 the first January 1 following the end of the year during which the
8 required levels were exceeded through the ninth December 31 after the
9 first year any property included in subdivisions (8)(c)(ii), (iii),
10 (iv), and (v) of this section qualifies for the exemption.

11 (v) Such investment and hiring of new employees shall be
12 considered a required level of investment and employment for this
13 subsection and for the recapture of benefits under this subsection
14 only.

15 (c) The following property used in connection with such
16 project or projects and acquired by the taxpayer, whether by lease or
17 purchase, after the date the application was filed shall constitute
18 separate classes of personal property:

19 (i) Turbine-powered aircraft, including turboprop,
20 turbojet, and turbofan aircraft, except when any such aircraft is
21 used for fundraising for or for the transportation of an elected
22 official;

23 (ii) Computer systems, made up of equipment that is
24 interconnected in order to enable the acquisition, storage,
25 manipulation, management, movement, control, display, transmission,

1 or reception of data involving computer software and hardware, used
2 for business information processing which require environmental
3 controls of temperature and power and which are capable of
4 simultaneously supporting more than one transaction and more than one
5 user. A computer system includes peripheral components which require
6 environmental controls of temperature and power connected to such
7 computer systems. Peripheral components shall be limited to
8 additional memory units, tape drives, disk drives, power supplies,
9 cooling units, data switches, and communication controllers;

10 (iii) Depreciable personal property used for a
11 distribution facility, including, but not limited to, storage racks,
12 conveyor mechanisms, forklifts, and other property used to store or
13 move products;

14 (iv) Personal property which is business equipment
15 located in a single project if the business equipment is involved
16 directly in the manufacture or processing of agricultural products;
17 and

18 (v) For a tier 2 large data center project or tier 6
19 project, any other personal property located at the project.

20 (d) In order to receive the property tax exemptions
21 allowed by subdivision (8)(c) of this section, the taxpayer shall
22 annually file a claim for exemption with the Tax Commissioner on or
23 before May 1. The form and supporting schedules shall be prescribed
24 by the Tax Commissioner and shall list all property for which
25 exemption is being sought under this section. A separate claim for

1 exemption must be filed for each project and each county in which
2 property is claimed to be exempt. A copy of this form must also be
3 filed with the county assessor in each county in which the applicant
4 is requesting exemption. The Tax Commissioner shall determine whether
5 a taxpayer is eligible to obtain exemption for personal property
6 based on the criteria for exemption and the eligibility of each item
7 listed for exemption and, on or before August 1, certify such to the
8 taxpayer and to the affected county assessor.

9 (9)(a) The investment thresholds in this section for a
10 particular year of application shall be adjusted by the method
11 provided in this subsection.

12 (b) For tier 1, tier 2, tier 4, and tier 5, beginning
13 October 1, 2006, and each October 1 thereafter, the average Producer
14 Price Index for all commodities, published by the United States
15 Department of Labor, Bureau of Labor Statistics, for the most recent
16 twelve available periods shall be divided by the Producer Price Index
17 for the first quarter of 2006 and the result multiplied by the
18 applicable investment threshold. The investment thresholds shall be
19 adjusted for cumulative inflation since 2006.

20 (c) For tier 6, beginning October 1, 2008, and each
21 October 1 thereafter, the average Producer Price Index for all
22 commodities, published by the United States Department of Labor,
23 Bureau of Labor Statistics, for the most recent twelve available
24 periods shall be divided by the Producer Price Index for the first
25 quarter of 2008 and the result multiplied by the applicable

1 investment threshold. The investment thresholds shall be adjusted for
2 cumulative inflation since 2008.

3 (d) For a tier 2 large data center project, beginning
4 October 1, 2012, and each October 1 thereafter, the average Producer
5 Price Index for all commodities, published by the United States
6 Department of Labor, Bureau of Labor Statistics, for the most recent
7 twelve available periods shall be divided by the Producer Price Index
8 for the first quarter of 2012 and the result multiplied by the
9 applicable investment threshold. The investment thresholds shall be
10 adjusted for cumulative inflation since 2012.

11 (e) If the resulting amount is not a multiple of one
12 million dollars, the amount shall be rounded to the next lowest one
13 million dollars.

14 (f) The investment thresholds established by this
15 subsection apply for purposes of project qualifications for all
16 applications filed on or after January 1 of the following year for
17 all years of the project. Adjustments do not apply to projects after
18 the year of application.

19 Sec. 49. Section 77-5726, Revised Statutes Cumulative
20 Supplement, 2012, is amended to read:

21 77-5726 (1)(a) The credits prescribed in section 77-5725
22 shall be established by filing the forms required by the Tax
23 Commissioner with the income tax return for the year. ~~The~~ For taxable
24 years beginning or deemed to begin before January 1, 2014, the
25 credits may be used and shall be applied in the order in which they

1 were first allowed. The credits may be used after any other
2 nonrefundable credits to reduce the taxpayer's income tax liability
3 imposed by sections 77-2714 to 77-27,135. Any decision on how part of
4 the credit is applied shall not limit how the remaining credit could
5 be applied under this section.

6 (b) ~~The~~ For taxable years beginning or deemed to begin
7 before January 1, 2014, the taxpayer may use the credit provided in
8 subsection (3) of section 77-5725 to reduce the taxpayer's income tax
9 withholding employer or payor tax liability under section 77-2756 or
10 77-2757 to the extent such liability is attributable to the number of
11 new employees at the project, excluding any compensation in excess of
12 one million dollars paid to any one employee during the year. ~~The~~ For
13 taxable years beginning or deemed to begin before January 1, 2014,
14 the taxpayer may use the credit provided in subsection (4) of section
15 77-5725 to reduce the taxpayer's income tax withholding employer or
16 payor tax liability under section 77-2756 or 77-2757 to the extent
17 such liability is attributable to all employees employed at the
18 project, other than base-year employees and excluding any
19 compensation in excess of one million dollars paid to any one
20 employee during the year. To the extent of the credit used, such
21 withholding shall not constitute public funds or state tax revenue
22 and shall not constitute a trust fund or be owned by the state. The
23 use by the taxpayer of the credit shall not change the amount that
24 otherwise would be reported by the taxpayer to the employee under
25 section 77-2754 as income tax withheld and shall not reduce the

1 amount that otherwise would be allowed by the state as a refundable
2 credit on an employee's income tax return as income tax withheld
3 under section 77-2755.

4 For a tier 1, tier 2, tier 3, or tier 4 project, the
5 amount of credits used against income tax withholding shall not
6 exceed the withholding attributable to new employees employed at the
7 project, excluding any compensation in excess of one million dollars
8 paid to any one employee during the year.

9 For a tier 6 project, the amount of credits used against
10 income tax withholding shall not exceed the withholding attributable
11 to all employees employed at the project, other than base-year
12 employees and excluding any compensation in excess of one million
13 dollars paid to any one employee during the year.

14 If the amount of credit used by the taxpayer against
15 income tax withholding exceeds this amount, the excess withholding
16 shall be returned to the Department of Revenue in the manner provided
17 in section 77-2756, such excess amount returned shall be considered
18 unused, and the amount of unused credits may be used as otherwise
19 permitted in this section or shall carry over to the extent
20 authorized in subdivision (1)(e) of this section.

21 (c) Credits may be used to obtain a refund of sales and
22 use taxes under the Local Option Revenue Act, the Nebraska Revenue
23 Act of 1967, and sections 13-319, 13-324, and 13-2813 which are not
24 otherwise refundable that are paid on purchases, including rentals,
25 for use at the project for a tier 1, tier 2, tier 3, or tier 4

1 project or for use within this state for a tier 2 large data center
2 project or a tier 6 project.

3 (d) The credits earned for a tier 6 project may be used
4 to obtain a payment from the state equal to the real property taxes
5 due after the year the required levels of employment and investment
6 were met and before the end of the carryover period, for real
7 property that is included in such project and acquired by the
8 taxpayer, whether by lease or purchase, after the date the
9 application was filed. Once the required levels of employment and
10 investment for a tier 2 large data center project have been met, the
11 credits earned for a tier 2 large data center project may be used to
12 obtain a payment from the state equal to the real property taxes due
13 after the year of application and before the end of the carryover
14 period, for real property that is included in such project and
15 acquired by the taxpayer, whether by lease or purchase, after the
16 date the application was filed. The payment from the state shall be
17 made only after payment of the real property taxes have been made to
18 the county as required by law. Payments shall not be allowed for any
19 taxes paid on real property for which the taxes are divided under
20 section 18-2147 or 58-507.

21 (e)(i) Credits may be carried over until fully utilized,
22 except that such credits may not be carried over more than ~~nine years~~
23 ~~after the year of application for a tier 1 or tier 3 project,~~
24 ~~fourteen years after the year of application for a tier 2 or tier 4~~
25 ~~project, or more than one year~~ five years past the end of the

1 entitlement period. ~~for a tier 6 project.~~

2 (ii) Credits may not be used or carried over to any
3 taxable year beginning or deemed to begin on or after January 1,
4 2014.

5 (2)(a) No refund claims shall be filed until after the
6 required levels of employment and investment have been met.

7 (b) Refund claims shall be filed no more than once each
8 quarter for refunds under the Nebraska Advantage Act, except that any
9 claim for a refund in excess of twenty-five thousand dollars may be
10 filed at any time.

11 (c) Refund claims for materials purchased by a purchasing
12 agent shall include:

13 (i) A copy of the purchasing agent appointment;

14 (ii) The contract price; and

15 (iii)(A) For refunds under subdivision (2)(a)(iii) or (2)
16 (a)(v) of section 77-5725, a certification by the contractor or
17 repairperson of the percentage of the materials incorporated into or
18 annexed to the project on which sales and use taxes were paid to
19 Nebraska after appointment as purchasing agent; or

20 (B) For refunds under subdivision (2)(a)(iv) of section
21 77-5725, a certification by the contractor or repairperson of the
22 percentage of the contract price that represents the cost of
23 materials annexed to the project and the percentage of the materials
24 annexed to the project on which sales and use taxes were paid to
25 Nebraska after appointment as purchasing agent.

1 (d) All refund claims shall be filed, processed, and
2 allowed as any other claim under section 77-2708, except that the
3 amounts allowed to be refunded under the Nebraska Advantage Act shall
4 be deemed to be overpayments and shall be refunded notwithstanding
5 any limitation in subdivision (2)(a) of section 77-2708. The refund
6 may be allowed if the claim is filed within three calendar years from
7 the end of the year the required levels of employment and investment
8 are met or within the period set forth in section 77-2708.

9 (e) If a claim for a refund of sales and use taxes under
10 the Local Option Revenue Act or sections 13-319, 13-324, and 13-2813
11 of more than twenty-five thousand dollars is filed by June 15 of a
12 given year, the refund shall be made on or after November 15 of the
13 same year. If such a claim is filed on or after June 16 of a given
14 year, the refund shall not be made until on or after November 15 of
15 the following year. The Tax Commissioner shall notify the affected
16 city, village, county, or municipal county of the amount of refund
17 claims of sales and use taxes under the Local Option Revenue Act or
18 sections 13-319, 13-324, and 13-2813 that are in excess of twenty-
19 five thousand dollars on or before July 1 of the year before the
20 claims will be paid under this section.

21 (f) Interest shall not be allowed on any taxes refunded
22 under the Nebraska Advantage Act.

23 (3) The appointment of purchasing agents shall be
24 recognized for the purpose of changing the status of a contractor or
25 repairperson as the ultimate consumer of tangible personal property

1 purchased after the date of the appointment which is physically
2 incorporated into or annexed to the project and becomes the property
3 of the owner of the improvement to real estate or the taxpayer. The
4 purchasing agent shall be jointly liable for the payment of the sales
5 and use tax on the purchases with the owner of the property.

6 (4) A determination that a taxpayer is not engaged in a
7 qualified business or has failed to meet or maintain the required
8 levels of employment or investment for incentives, exemptions, or
9 recapture may be protested within sixty days after the mailing of the
10 written notice of the proposed determination. If the notice of
11 proposed determination is not protested within the sixty-day period,
12 the proposed determination is a final determination. If the notice is
13 protested, the Tax Commissioner shall issue a written order resolving
14 such protests. The written order of the Tax Commissioner resolving a
15 protest may be appealed to the district court of Lancaster County
16 within thirty days after the issuance of the order.

17 Sec. 50. Section 77-5727, Revised Statutes Cumulative
18 Supplement, 2012, is amended to read:

19 77-5727 (1)(a) If the taxpayer fails either to meet the
20 required levels of employment or investment for the applicable
21 project by the end of the fourth year after the end of the year the
22 application was submitted for a tier 1, tier 3, or tier 6 project or
23 by the end of the sixth year after the end of the year the
24 application was submitted for a tier 2, tier 4, or tier 5 project or
25 to utilize such project in a qualified business at employment and

1 investment levels at or above those required in the agreement for the
2 entire entitlement period, all or a portion of the incentives set
3 forth in the Nebraska Advantage Act shall be recaptured or
4 disallowed.

5 (b) In the case of a taxpayer who has failed to meet the
6 required levels of investment or employment within the required time
7 period, all reduction in the personal property tax because of the act
8 shall be recaptured.

9 (2) In the case of a taxpayer who has failed to maintain
10 the project at the required levels of employment or investment for
11 the entire entitlement period, any reduction in the personal property
12 tax, any refunds in tax allowed under subsection (2) of section
13 77-5725, and any refunds or reduction in tax allowed because of the
14 use of a credit allowed under section 77-5725 shall be partially
15 recaptured from either the taxpayer or the owner of the improvement
16 to real estate and any carryovers of credits shall be partially
17 disallowed. The amount of the recapture shall be a percentage equal
18 to the number of years the taxpayer did not maintain the project at
19 or above the required levels of investment and employment divided by
20 the number of years of the project's entitlement period multiplied by
21 the refunds allowed, reduction in personal property tax, the credits
22 used, and the remaining carryovers. In addition, the last remaining
23 year of personal property tax exemption shall be disallowed for each
24 year the taxpayer did not maintain such project at or above the
25 required levels of employment or investment.

1 (3) In the case of a taxpayer qualified under tier 5 who
2 has failed to maintain the average number of equivalent employees at
3 the project at the end of the ~~six~~-four years following the year the
4 taxpayer attained the required amount of investment, any refunds in
5 tax allowed under subsection (2) of section 77-5725 or any reduction
6 in the personal property tax under section 77-5725 shall be partially
7 recaptured from the taxpayer. The amount of recapture shall be the
8 total amount of refunds and reductions in tax allowed for all years
9 times the reduction in the average number of equivalent employees
10 employed at the end of the entitlement period from the number of
11 equivalent employees employed in the base year divided by the number
12 of equivalent employees employed in the base year. For purposes of
13 this subsection, the average number of equivalent employees shall be
14 calculated at the end of the entitlement period by adding the number
15 of equivalent employees in the year the taxpayer attains the required
16 level of investment and each of the next following ~~six~~-four years and
17 dividing the result by ~~seven~~- five.

18 (4) If the taxpayer receives any refunds or reduction in
19 tax to which the taxpayer was not entitled or which were in excess of
20 the amount to which the taxpayer was entitled, the refund or
21 reduction in tax shall be recaptured separate from any other
22 recapture otherwise required by this section. Any amount recaptured
23 under this subsection shall be excluded from the amounts subject to
24 recapture under other subsections of this section.

25 (5) Any refunds or reduction in tax due, to the extent

1 required to be recaptured, shall be deemed to be an underpayment of
2 the tax and shall be immediately due and payable. When tax benefits
3 were received in more than one year, the tax benefits received in the
4 most recent year shall be recovered first and then the benefits
5 received in earlier years up to the extent of the required recapture.

6 (6)(a) Except as provided in subdivision (6)(b) of this
7 section, any personal property tax that would have been due except
8 for the exemption allowed under the Nebraska Advantage Act, to the
9 extent it becomes due under this section, shall be considered
10 delinquent and shall be immediately due and payable to the county or
11 counties in which the property was located when exempted.

12 (b) For a tier 2 large data center project, any personal
13 property tax that would have been due except for the exemption under
14 the Nebraska Advantage Act, together with interest at the rate
15 provided in section 45-104.01 from the original delinquency date of
16 the tax that would have been due until the date paid, to the extent
17 it becomes due under this section, shall be considered delinquent and
18 shall be immediately payable to the county or counties in which the
19 property was located when exempted.

20 (c) All amounts received by a county under this section
21 shall be allocated to each taxing unit levying taxes on tangible
22 personal property in the county in the same proportion that the levy
23 on tangible personal property of such taxing unit bears to the total
24 levy of all of such taxing units.

25 (7) Notwithstanding any other limitations contained in

1 the laws of this state, collection of any taxes deemed to be
2 underpayments by this section shall be allowed for a period of three
3 years after the end of the entitlement period.

4 (8) Any amounts due under this section shall be
5 recaptured notwithstanding other allowable credits and shall not be
6 subsequently refunded under any provision of the Nebraska Advantage
7 Act unless the recapture was in error.

8 (9) The recapture required by this section shall not
9 occur if the failure to maintain the required levels of employment or
10 investment was caused by an act of God or national emergency.

11 Sec. 51. Section 77-5735, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 77-5735 (1) The changes made in sections 77-5703,
14 77-5708, 77-5712, 77-5714, 77-5715, 77-5723, 77-5725, 77-5726,
15 77-5727, and 77-5731 by Laws 2008, LB895, and sections 77-5707.01,
16 77-5719.01, and 77-5719.02 apply to all applications filed on and
17 after April 18, 2008. For all applications filed prior to such date,
18 the provisions of the Nebraska Advantage Act as they existed
19 immediately prior to such date apply.

20 (2) The changes made in sections 77-5725 and 77-5726 by
21 Laws 2010, LB879, apply to all applications filed on or after July
22 15, 2010. For all applications filed prior to such date, the taxpayer
23 may make a one-time election, within the time period prescribed by
24 the Tax Commissioner, to have the changes made in sections 77-5725
25 and 77-5726 by Laws 2010, LB879, apply to such taxpayer's

1 application, or in the absence of such an election, the provisions of
2 the Nebraska Advantage Act as they existed immediately prior to July
3 15, 2010, apply to such application.

4 (3) The changes made in sections 77-5707, 77-5715,
5 77-5719, and 77-5725 by Laws 2010, LB918, apply to all applications
6 filed on or after July 15, 2010. For all applications filed prior to
7 such date, the provisions of the Nebraska Advantage Act as they
8 existed immediately prior to such date apply.

9 (4) The changes made in sections 77-5701, 77-5703,
10 77-5705, 77-5715, 77-5723, 77-5725, 77-5726, and 77-5727 by Laws
11 2012, LB1118, apply to all applications filed on or after March 8,
12 2012. For all applications filed prior to such date, the provisions
13 of the Nebraska Advantage Act as they existed immediately prior to
14 such date apply.

15 (5) The changes made in sections 77-5708, 77-5723,
16 77-5725, and 77-5727 and in subdivision (1)(e)(i) of section 77-5726
17 by this legislative bill apply to all applications filed on or after
18 the operative date of this section. For all applications filed prior
19 to such date, the provisions of such sections and subdivision as they
20 existed immediately prior to such date apply.

21 Sec. 52. Section 77-5804, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-5804 (1) The credit allowed under section 77-5803 may
24 be used to obtain a refund of state sales and use taxes paid, and,
25 for taxable years beginning or deemed to begin before January 1,

1 2014, may be used against the income tax liability of the taxpayer,
2 or ~~may be used~~ as a refundable credit claimed on an income tax return
3 of the taxpayer. The return need not reflect any income tax liability
4 owed by the taxpayer.

5 (2) A claim for the credit may be filed quarterly for
6 refund of the state sales and use taxes paid, either directly or
7 indirectly, after the filing of the income tax return for the tax
8 year in which the credit was first allowed.

9 (3) The credit may be used to obtain a refund of state
10 sales and use taxes paid before the end of the tax year for which the
11 credit was allowed, except that the amount refunded under this
12 subsection shall not exceed the amount of the state sales and use
13 taxes paid, either directly or indirectly, by the taxpayer on the
14 qualifying expenditures.

15 (4) Credits distributed to a partner, limited liability
16 company member, shareholder, or beneficiary may be used against the
17 income tax liability of the partner, member, shareholder, or
18 beneficiary receiving the credits.

19 (5) Interest shall not be allowed on any taxes refunded
20 under the Nebraska Advantage Research and Development Act.

21 Sec. 53. Section 77-5905, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 77-5905 (1) If the Department of Revenue determines that
24 an application meets the requirements of section 77-5904 and that the
25 investment or employment is eligible for the credit and (a) the

1 applicant is actively engaged in the operation of the microbusiness
2 or will be actively engaged in the operation upon its establishment,
3 (b) the majority of the assets of the microbusiness are located in a
4 distressed area or will be upon its establishment, (c) the applicant
5 will make new investment or employment in the microbusiness, and (d)
6 the new investment or employment will create new income or jobs in
7 the distressed area, the department shall approve the application and
8 authorize tentative tax credits to the applicant within the limits
9 set forth in this section and certify the amount of tentative tax
10 credits approved for the applicant. Applications for tax credits
11 shall be considered in the order in which they are received.

12 (2) The department may approve applications up to the
13 adjusted limit for each calendar year beginning January 1, 2006,
14 through December 31, ~~2015.~~2013. After applications totaling the
15 adjusted limit have been approved for a calendar year, no further
16 applications shall be approved for that year. The adjusted limit in a
17 given year is two million dollars plus tentative tax credits that
18 were not granted by the end of the preceding year. Tax credits shall
19 not be allowed for a taxpayer receiving benefits under the Employment
20 and Investment Growth Act, the Nebraska Advantage Act, or the
21 Nebraska Advantage Rural Development Act.

22 Sec. 54. Section 77-5906, Reissue Revised Statutes of
23 Nebraska, is amended to read:

24 77-5906 ~~Taxpayers~~For taxable years beginning or deemed
25 to begin before January 1, 2014, taxpayers shall be entitled to

1 refundable tax credits equal to twenty percent of the taxpayer's new
2 investment or employment in the microbusiness during the tax year not
3 to exceed the amount of tentative tax credits approved by the
4 department under section 77-5905. The taxpayer shall claim the tax
5 credit by filing a form developed by the Tax Commissioner and
6 attaching the tentative tax credit certification granted by the
7 department. Tentative tax credits expire after the end of the tax
8 year following the year the tentative tax credit was certified. The
9 total lifetime tax credits claimed by any one taxpayer and any
10 related person under the Nebraska Advantage Microenterprise Tax
11 Credit Act shall be limited to ten thousand dollars. Interest shall
12 not be allowed on any taxes refunded under the act.

13 Sec. 55. Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 13,
14 14, 15, 16, 17, 18, 19, 57, and 58 of this act become operative on
15 October 1, 2013. The other sections of this act become operative on
16 their effective date.

17 Sec. 56. Original sections 77-2715, 77-2753, 77-2754,
18 77-2755, 77-2761, 77-2768, 77-2769, 77-2769.01, 77-2770.01, 77-2775,
19 77-27,188, 77-27,188.01, 77-3802, 77-4106, 77-5209.01, 77-5211,
20 77-5531, 77-5708, 77-5804, 77-5905, and 77-5906, Reissue Revised
21 Statutes of Nebraska, and sections 77-2701, 77-2701.01, 77-2715.03,
22 77-2715.07, 77-2717, 77-2727, 77-2734.01, 77-2734.02, 77-2734.03,
23 77-2756, 77-5723, 77-5725, 77-5726, 77-5727, and 77-5735, Revised
24 Statutes Cumulative Supplement, 2012, are repealed.

25 Sec. 57. Original sections 2-2701, 3-149, 77-2701.24,

1 77-2701.32, 77-2701.33, 77-2701.34, 77-2701.35, 77-2701.37,
2 77-2701.42, 77-2701.48, 77-2704.41, 77-2704.46, and 77-2706, Reissue
3 Revised Statutes of Nebraska, and sections 77-382, 77-2701.16,
4 77-2704.12, and 77-2708, Revised Statutes Cumulative Supplement,
5 2012, are repealed.

6 Sec. 58. The following sections are outright repealed:
7 Sections 77-2701.46, 77-2701.47, 77-2704.03, 77-2704.04, 77-2704.08,
8 77-2704.09, 77-2704.11, 77-2704.13, 77-2704.22, 77-2704.23,
9 77-2704.26, 77-2704.27, 77-2704.40, 77-2704.43, 77-2704.45,
10 77-2704.47, 77-2704.60, and 77-2708.01, Reissue Revised Statutes of
11 Nebraska, and sections 77-2701.54, 77-2704.36, 77-2704.50,
12 77-2704.61, and 77-2704.62, Revised Statutes Cumulative Supplement,
13 2012.