

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 774

FINAL READING

Introduced by Scheer, 19.

Read first time January 07, 2016

Committee: Revenue

1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
2 3-613 and 77-2704.56, Reissue Revised Statutes of Nebraska, sections
3 77-2704.12, 77-2704.13, 77-2717, 77-2734.03, 77-2905, and 77-2909,
4 Revised Statutes Cumulative Supplement, 2014, and sections 77-2701,
5 77-2704.15, 77-2715.07, and 77-2904, Revised Statutes Supplement,
6 2015; to change provisions relating to levy limitations for certain
7 airport authorities; to provide a sales and use tax exemption for
8 purchases by nonprofit centers for independent living and substance
9 abuse treatment centers and county agricultural societies; to change
10 sales tax exemption provisions relating to certain purchases of
11 energy and fuels and purchases by museums; to provide an income tax
12 credit to employers of recipients of certain public assistance as
13 prescribed; to change the Nebraska Job Creation and Mainstreet
14 Revitalization Act; to harmonize provisions; to provide operative
15 dates; to repeal the original sections; and to declare an emergency.
16 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 3-613, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 3-613 Any authority established under sections 3-601 to 3-622 shall
4 have power:

5 (1) To sue and be sued;

6 (2) To have a seal and alter the same at pleasure;

7 (3) To acquire, hold, and dispose of personal property for its
8 corporate purposes;

9 (4) To acquire in the name of the county, by purchase or
10 condemnation, real property or rights or easements therein necessary or
11 convenient for its corporate purposes and, except as may otherwise be
12 provided in such sections, to use the same so long as its corporate
13 existence continues. Such power shall not be exercised by authorities
14 created after September 2, 1973, without further approval until such time
15 as three or more members of the authority have been elected. If the
16 exercise of such power is necessary while three or more appointed members
17 remain on the authority, the appointing body shall approve all
18 proceedings under this subdivision;

19 (5) To make bylaws for the management and regulation of its affairs
20 and, subject to agreements with bondholders, to make rules and
21 regulations for the use of projects and the establishment and collection
22 of rentals, fees, and all other charges for services or commodities sold,
23 furnished, or supplied by such authority. Any person violating such rules
24 shall be guilty of a Class III misdemeanor;

25 (6) With the consent of the county, to use the services of agents,
26 employees, and facilities of the county, for which the authority may
27 reimburse the county a proper proportion of the compensation or cost
28 thereof, and also to use the services of the county attorney as legal
29 advisor to the authority;

30 (7) To appoint officers, agents, and employees and fix their
31 compensation;

1 (8) To make contracts, leases, and all other instruments necessary
2 or convenient to the corporate purposes of the authority;

3 (9) To design, construct, maintain, operate, improve, and
4 reconstruct, so long as its corporate existence continues, such projects
5 as are necessary and convenient to the maintenance and development of
6 aviation services to and for the county in which such authority is
7 established, including landing fields, heliports, hangars, shops,
8 passenger and freight terminals, control towers, and all facilities
9 necessary or convenient in connection with any such project, to contract
10 for the construction, operation, or maintenance of any parts thereof or
11 for services to be performed thereon, and to rent parts thereof and grant
12 concessions thereon, all on such terms and conditions as the authority
13 may determine. This subdivision shall not be construed to affect the
14 obligation of a lessee to pay taxes if taxes are due under sections
15 77-202, 77-202.11, and 77-202.12;

16 (10) To include in such project, subject to zoning restrictions,
17 space and facilities for any or all of the following: Public recreation;
18 business, trade, or other exhibitions; sporting or athletic events;
19 public meetings; conventions; and all other kinds of assemblages and, in
20 order to obtain additional revenue, space and facilities for business and
21 commercial purposes. Whenever the authority deems it to be in the public
22 interest, the authority may lease any such project or any part or parts
23 thereof or contract for the management and operation thereof or any part
24 or parts thereof. Any such lease or contract may be for such period of
25 years as the authority shall determine. This subdivision shall not be
26 construed to affect the obligation of a lessee to pay taxes if taxes are
27 due under sections 77-202, 77-202.11, and 77-202.12;

28 (11) To charge fees, rentals, and other charges for the use of
29 projects under the jurisdiction of such authority subject to and in
30 accordance with such agreement with bondholders as may be made as
31 hereinafter provided. Subject to contracts with bondholders, all fees,

1 rentals, charges, and other revenue derived from any project shall be
2 applied to the payment of operating, administration, and other necessary
3 expenses of the authority properly chargeable to such project and to the
4 payment of the interest on and principal of bonds or for making sinking-
5 fund payments therefor. Subject to contracts with bondholders, the
6 authority may treat one or more projects as a single enterprise with
7 respect to revenue, expenses, the issuance of bonds, maintenance,
8 operation, or other purposes;

9 (12) To annually request of the county board the amount of tax to be
10 levied for airport purposes subject to section 77-3443, not to exceed
11 three and five-tenths cents on each one hundred dollars of taxable
12 valuation of all the taxable property in such county. Property tax levies
13 for bonds issued by the authority pursuant to section 3-617 are not
14 included in the levy limits established by this subdivision. The
15 governing body shall levy and collect the taxes so requested at the same
16 time and in the same manner as other taxes are levied and collected, and
17 the proceeds of such taxes when due and as collected shall be set aside
18 and deposited in the special account or accounts in which other revenue
19 of the authority is deposited;

20 (13) To construct and maintain under, along, over, or across a
21 project, telephone, telegraph, or electric wires and cables, fuel lines,
22 gas mains, water mains, and other mechanical equipment not inconsistent
23 with the appropriate use of such project, to contract for such
24 construction and to lease the right to construct and use the same, or to
25 use the same on such terms for such period of time and for such
26 consideration as the authority shall determine;

27 (14) To accept grants, loans, or contributions from the United
28 States, the State of Nebraska, any agency or instrumentality of either of
29 them, or the county in which such authority is established and to expend
30 the proceeds thereof for any corporate purposes;

31 (15) To incur debt and issue negotiable bonds and to provide for the

1 rights of the holders thereof;

2 (16) To enter on any lands, waters, and premises for the purposes of
3 making surveys, soundings, and examinations; and

4 (17) To do all things necessary or convenient to carry out the
5 powers expressly conferred on such authorities by sections 3-601 to
6 3-622.

7 Sec. 2. Section 77-2701, Revised Statutes Supplement, 2015, is
8 amended to read:

9 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,235, and 77-27,236
10 and section 10 of this act shall be known and may be cited as the
11 Nebraska Revenue Act of 1967.

12 Sec. 3. Section 77-2704.12, Revised Statutes Cumulative Supplement,
13 2014, is amended to read:

14 77-2704.12 (1) Sales and use taxes shall not be imposed on the gross
15 receipts from the sale, lease, or rental of and the storage, use, or
16 other consumption in this state of purchases by (a) any nonprofit
17 organization created exclusively for religious purposes, (b) any
18 nonprofit organization providing services exclusively to the blind, (c)
19 any nonprofit private educational institution established under sections
20 79-1601 to 79-1607, (d) any regionally or nationally accredited,
21 nonprofit, privately controlled college or university with its primary
22 campus physically located in Nebraska, (e) any nonprofit (i) hospital,
23 (ii) health clinic when one or more hospitals or the parent corporations
24 of the hospitals own or control the health clinic for the purpose of
25 reducing the cost of health services or when the health clinic receives
26 federal funds through the United States Public Health Service for the
27 purpose of serving populations that are medically underserved, (iii)
28 skilled nursing facility, (iv) intermediate care facility, (v) assisted-
29 living facility, (vi) intermediate care facility for persons with
30 developmental disabilities, (vii) nursing facility, (viii) home health
31 agency, (ix) hospice or hospice service, (x) respite care service,—or

1 (xi) mental health center licensed under the Health Care Facility
2 Licensure Act, (xii) substance abuse treatment center licensed under the
3 Health Care Facility Licensure Act, or (xiii) center for independent
4 living as defined in 29 U.S.C. 796a, (f) any nonprofit licensed
5 residential child-caring agency, (g) any nonprofit licensed child-placing
6 agency, or (h) any nonprofit organization certified by the Department of
7 Health and Human Services to provide community-based services for persons
8 with developmental disabilities.

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

14 (3) The appointment of purchasing agents shall be recognized for the
15 purpose of altering the status of the construction contractor as the
16 ultimate consumer of building materials which are physically annexed to
17 the structure and which subsequently belong to the owner of the
18 organization or institution. The appointment of purchasing agents shall
19 be in writing and occur prior to having any building materials annexed to
20 real estate in the construction, improvement, or repair. The contractor
21 who has been appointed as a purchasing agent may apply for a refund of or
22 use as a credit against a future use tax liability the tax paid on
23 inventory items annexed to real estate in the construction, improvement,
24 or repair of a project for a licensed not-for-profit institution.

25 (4) Any organization listed in subsection (1) of this section which
26 enters into a contract of construction, improvement, or repair upon
27 property annexed to real estate without first issuing a purchasing agent
28 authorization to a contractor or repairperson prior to the building
29 materials being annexed to real estate in the project may apply to the
30 Tax Commissioner for a refund of any sales and use tax paid by the
31 contractor or repairperson on the building materials physically annexed

1 to real estate in the construction, improvement, or repair.

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

16 Sec. 4. Section 77-2704.13, Revised Statutes Cumulative Supplement,
17 2014, is amended to read:

18 77-2704.13 Sales and use taxes shall not be imposed on the gross
19 receipts from the sale, lease, or rental of and the storage, use, or
20 other consumption in this state of:

21 (1) Sales and purchases of electricity, coal, gas, fuel oil, diesel
22 fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, butane, wood
23 as fuel, and corn as fuel when more than fifty percent of the amount
24 purchased is for use directly in irrigation or farming;

25 (2) Sales and purchases of such energy sources or fuels when more
26 than fifty percent of the amount purchased is for use directly in
27 processing, manufacturing, or refining, in the generation of electricity,
28 in the compression of natural gas for retail sale as a vehicle fuel, or
29 by any hospital. For purposes of this subdivision, processing includes
30 the drying and aerating of grain in commercial agricultural facilities;

31 and

1 (3) Sales and purchases of water used for irrigation of agricultural
2 lands and manufacturing purposes.

3 Sec. 5. Section 77-2704.15, Revised Statutes Supplement, 2015, is
4 amended to read:

5 77-2704.15 (1)(a) Sales and use taxes shall not be imposed on the
6 gross receipts from the sale, lease, or rental of and the storage, use,
7 or other consumption in this state of purchases by the state, including
8 public educational institutions recognized or established under the
9 provisions of Chapter 85, or by any county, township, city, village,
10 rural or suburban fire protection district, city airport authority,
11 county airport authority, joint airport authority, drainage district
12 organized under sections 31-401 to 31-450, sanitary drainage district
13 organized under sections 31-501 to 31-553, land bank created under the
14 Nebraska Municipal Land Bank Act, natural resources district, county
15 agricultural society, elected county fair board, housing agency as
16 defined in section 71-1575 except for purchases for any commercial
17 operation that does not exclusively benefit the residents of an
18 affordable housing project, cemetery created under section 12-101, or
19 joint entity or agency formed by any combination of two or more counties,
20 townships, cities, villages, or other exempt governmental units pursuant
21 to the Interlocal Cooperation Act, the Integrated Solid Waste Management
22 Act, or the Joint Public Agency Act, except for purchases for use in the
23 business of furnishing gas, water, electricity, or heat, or by any
24 irrigation or reclamation district, the irrigation division of any public
25 power and irrigation district, or public schools or learning communities
26 established under Chapter 79.

27 (b) For purposes of this subsection, purchases by the state or by a
28 governmental unit listed in subdivision (a) of this subsection include
29 purchases by a nonprofit corporation under a lease-purchase agreement,
30 financing lease, or other instrument which provides for transfer of title
31 to the property to the state or governmental unit upon payment of all

1 amounts due thereunder. If a nonprofit corporation will be making
2 purchases under a lease-purchase agreement, financing lease, or other
3 instrument as part of a project with a total estimated cost that exceeds
4 the threshold amount, then such purchases shall qualify for an exemption
5 under this section only if the question of proceeding with such project
6 has been submitted at a primary, general, or special election held within
7 the governmental unit that will be a party to the lease-purchase
8 agreement, financing lease, or other instrument and has been approved by
9 the voters of such governmental unit. For purposes of this subdivision,
10 (i) project means the acquisition of real property or the construction of
11 a public building and (ii) threshold amount means the greater of fifty
12 thousand dollars or six-tenths of one percent of the total actual value
13 of real and personal property of the governmental unit that will be a
14 party to the lease-purchase agreement, financing lease, or other
15 instrument as of the end of the governmental unit's prior fiscal year.

16 (2) The appointment of purchasing agents shall be recognized for the
17 purpose of altering the status of the construction contractor as the
18 ultimate consumer of building materials which are physically annexed to
19 the structure and which subsequently belong to the state or the
20 governmental unit. The appointment of purchasing agents shall be in
21 writing and occur prior to having any building materials annexed to real
22 estate in the construction, improvement, or repair. The contractor who
23 has been appointed as a purchasing agent may apply for a refund of or use
24 as a credit against a future use tax liability the tax paid on inventory
25 items annexed to real estate in the construction, improvement, or repair
26 of a project for the state or a governmental unit.

27 (3) Any governmental unit listed in subsection (1) of this section,
28 except the state, which enters into a contract of construction,
29 improvement, or repair upon property annexed to real estate without first
30 issuing a purchasing agent authorization to a contractor or repairperson
31 prior to the building materials being annexed to real estate in the

1 project may apply to the Tax Commissioner for a refund of any sales and
2 use tax paid by the contractor or repairperson on the building materials
3 physically annexed to real estate in the construction, improvement, or
4 repair.

5 Sec. 6. Section 77-2704.56, Reissue Revised Statutes of Nebraska, is
6 amended to read:

7 77-2704.56 Sales and use taxes shall not be imposed on the gross
8 receipts from the sale, lease, or rental of and the storage, use, or
9 other consumption in this state of purchases of property as defined in
10 subdivision (8) of section 51-702 or fine art by any museum as defined in
11 subdivision (6) of section 51-702.

12 Sec. 7. Section 77-2715.07, Revised Statutes Supplement, 2015, is
13 amended to read:

14 77-2715.07 (1) There shall be allowed to qualified resident
15 individuals as a nonrefundable credit against the income tax imposed by
16 the Nebraska Revenue Act of 1967:

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

19 (b) A credit for taxes paid to another state as provided in section
20 77-2730.

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

23 (a) For returns filed reporting federal adjusted gross incomes of
24 greater than twenty-nine thousand dollars, a nonrefundable credit equal
25 to twenty-five percent of the federal credit allowed under section 21 of
26 the Internal Revenue Code of 1986, as amended, except that for taxable
27 years beginning or deemed to begin on or after January 1, 2015, such
28 nonrefundable credit shall be allowed only if the individual would have
29 received the federal credit allowed under section 21 of the code after
30 adding back in any carryforward of a net operating loss that was deducted
31 pursuant to such section in determining eligibility for the federal

1 credit;

2 (b) For returns filed reporting federal adjusted gross income of
3 twenty-nine thousand dollars or less, a refundable credit equal to a
4 percentage of the federal credit allowable under section 21 of the
5 Internal Revenue Code of 1986, as amended, whether or not the federal
6 credit was limited by the federal tax liability. The percentage of the
7 federal credit shall be one hundred percent for incomes not greater than
8 twenty-two thousand dollars, and the percentage shall be reduced by ten
9 percent for each one thousand dollars, or fraction thereof, by which the
10 reported federal adjusted gross income exceeds twenty-two thousand
11 dollars, except that for taxable years beginning or deemed to begin on or
12 after January 1, 2015, such refundable credit shall be allowed only if
13 the individual would have received the federal credit allowed under
14 section 21 of the code after adding back in any carryforward of a net
15 operating loss that was deducted pursuant to such section in determining
16 eligibility for the federal credit;

17 (c) A refundable credit as provided in section 77-5209.01 for
18 individuals who qualify for an income tax credit as a qualified beginning
19 farmer or livestock producer under the Beginning Farmer Tax Credit Act
20 for all taxable years beginning or deemed to begin on or after January 1,
21 2006, under the Internal Revenue Code of 1986, as amended;

22 (d) A refundable credit for individuals who qualify for an income
23 tax credit under the Angel Investment Tax Credit Act, the Nebraska
24 Advantage Microenterprise Tax Credit Act, or the Nebraska Advantage
25 Research and Development Act; and

26 (e) A refundable credit equal to ten percent of the federal credit
27 allowed under section 32 of the Internal Revenue Code of 1986, as
28 amended, except that for taxable years beginning or deemed to begin on or
29 after January 1, 2015, such refundable credit shall be allowed only if
30 the individual would have received the federal credit allowed under
31 section 32 of the code after adding back in any carryforward of a net

1 operating loss that was deducted pursuant to such section in determining
2 eligibility for the federal credit.

3 (3) There shall be allowed to all individuals as a nonrefundable
4 credit against the income tax imposed by the Nebraska Revenue Act of
5 1967:

6 (a) A credit for personal exemptions allowed under section
7 77-2716.01;

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

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

17 (d) A credit as provided in the New Markets Job Growth Investment
18 Act; ~~and~~

19 (e) A credit as provided in the Nebraska Job Creation and Mainstreet
20 Revitalization Act; and -

21 (f) A credit to employers as provided in section 10 of this act.

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

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

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

29 (c) A refundable credit for individuals who qualify for an income
30 tax credit as an owner of agricultural assets under the Beginning Farmer
31 Tax Credit Act for all taxable years beginning or deemed to begin on or

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

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

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

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

1 Sec. 8. Section 77-2717, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

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

24 (ii) For taxable years beginning or deemed to begin on or after
25 January 1, 2014, the tax imposed on all resident estates and trusts shall
26 be a percentage of the federal taxable income of such estates and trusts
27 as modified in section 77-2716, plus a percentage of the federal tax on
28 premature or lump-sum distributions from qualified retirement plans. The
29 additional taxes shall be recomputed by substituting Nebraska taxable
30 income for federal taxable income and applying Nebraska rates to the
31 result. The credits provided in the Nebraska Advantage Microenterprise

1 Tax Credit Act and the Nebraska Advantage Research and Development Act
2 shall be allowed as a reduction in the income tax due. A refundable
3 income tax credit shall be allowed for all resident estates and trusts
4 under the Angel Investment Tax Credit Act, the Nebraska Advantage
5 Microenterprise Tax Credit Act, and the Nebraska Advantage Research and
6 Development Act. A nonrefundable income tax credit shall be allowed for
7 all resident estates and trusts as provided in the Nebraska Job Creation
8 and Mainstreet Revitalization Act, ~~and~~ the New Markets Job Growth
9 Investment Act, and section 10 of this act.

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

1 this act.

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

14 (3) The beneficiaries of such estate or trust who are residents of
15 this state shall include in their income their proportionate share of
16 such estate's or trust's federal income and shall reduce their Nebraska
17 tax liability by their proportionate share of the credits as provided in
18 the Angel Investment Tax Credit Act, the Nebraska Advantage
19 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
20 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
21 Act, ~~and~~ the New Markets Job Growth Investment Act, and section 10 of
22 this act. There shall be allowed to a beneficiary a refundable income tax
23 credit under the Beginning Farmer Tax Credit Act for all taxable years
24 beginning or deemed to begin on or after January 1, 2001, under the
25 Internal Revenue Code of 1986, as amended.

26 (4) If any beneficiary of such estate or trust is a nonresident
27 during any part of the estate's or trust's taxable year, he or she shall
28 file a Nebraska income tax return which shall include (a) in Nebraska
29 adjusted gross income that portion of the estate's or trust's Nebraska
30 income, as determined under sections 77-2724 and 77-2725, allocable to
31 his or her interest in the estate or trust and (b) a reduction of the

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

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

28 (6) The Tax Commissioner may allow a nonresident beneficiary to not
29 file a Nebraska income tax return if the nonresident beneficiary's only
30 source of Nebraska income was his or her share of the estate's or trust's
31 income which was derived from or attributable to sources within this

1 state, the nonresident did not file an agreement to file a Nebraska
2 income tax return, and the estate or trust has remitted the amount
3 required by subsection (5) of this section on behalf of such nonresident
4 beneficiary. The amount remitted shall be retained in satisfaction of the
5 Nebraska income tax liability of the nonresident beneficiary.

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

13 (8) For purposes of this section, any beneficiary of an estate or
14 trust that is a grantor trust of a nonresident shall be disregarded and
15 this section shall apply as though the nonresident grantor was the
16 beneficiary.

17 Sec. 9. Section 77-2734.03, Revised Statutes Cumulative Supplement,
18 2014, is amended to read:

19 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
20 1997, any (i) insurer paying a tax on premiums and assessments pursuant
21 to section 77-908 or 81-523, (ii) electric cooperative organized under
22 the Joint Public Power Authority Act, or (iii) credit union shall be
23 credited, in the computation of the tax due under the Nebraska Revenue
24 Act of 1967, with the amount paid during the taxable year as taxes on
25 such premiums and assessments and taxes in lieu of intangible tax.

26 (b) For taxable years commencing on or after January 1, 1997, any
27 insurer paying a tax on premiums and assessments pursuant to section
28 77-908 or 81-523, any electric cooperative organized under the Joint
29 Public Power Authority Act, or any credit union shall be credited, in the
30 computation of the tax due under the Nebraska Revenue Act of 1967, with
31 the amount paid during the taxable year as (i) taxes on such premiums and

1 assessments included as Nebraska premiums and assessments under section
2 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

21 (5) There shall be allowed to corporate taxpayers refundable income
22 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act
23 and the Nebraska Advantage Research and Development Act.

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

27 (7) There shall be allowed to corporate taxpayers a nonrefundable
28 income tax credit as provided in the Nebraska Job Creation and Mainstreet
29 Revitalization Act, ~~and~~ the New Markets Job Growth Investment Act, and
30 section 10 of this act.

31 Sec. 10. (1) For taxable years beginning or deemed to begin on or

1 after January 1, 2017, there shall be allowed to an employer of any
2 eligible employee a nonrefundable credit, for not more than two years,
3 against the income tax imposed by the Nebraska Revenue Act of 1967 in the
4 amount of twenty percent of the employer's annual expenditures for any of
5 the following services that are provided to eligible employees and that
6 are incidental to the employer's business:

7 (a) The payment of tuition at a Nebraska public institution of
8 postsecondary education or the payment of the costs associated with a
9 high school equivalency program for eligible employees; and

10 (b) The provision of transportation of eligible employees to and
11 from work.

12 (2) The credit allowed under this section for any taxable year shall
13 not exceed the employer's actual tax liability for such taxable year.

14 (3) The Department of Revenue shall submit a report electronically
15 to the Clerk of the Legislature on or before July 1 of each year on (a)
16 the number of employers claiming a credit under this section and (b) the
17 number of eligible employees receiving the services for which credits are
18 claimed.

19 (4) The Department of Revenue, in consultation with the Department
20 of Health and Human Services, shall develop a process to verify that any
21 employer claiming credits under this section qualifies for such credits.

22 (5) The Department of Revenue may adopt and promulgate rules and
23 regulations necessary to carry out this section.

24 (6) For purposes of this section, eligible employee means a parent
25 or responsible relative who is a member of a family that received
26 benefits under the state or federally funded Temporary Assistance for
27 Needy Families program established in 42 U.S.C. 601 et seq., for any nine
28 months of the eighteen-month period immediately prior to the employee's
29 hiring date.

30 Sec. 11. Section 77-2904, Revised Statutes Supplement, 2015, is
31 amended to read:

1 77-2904 (1) Any person incurring eligible expenditures may receive a
2 nonrefundable credit against any income tax imposed by the Nebraska
3 Revenue Act of 1967 or any tax imposed pursuant to sections 44-101 to
4 44-165, 77-907 to 77-918, or 77-3801 to 77-3807 for the year the
5 historically significant real property is placed in service. The amount
6 of the credit shall be equal to twenty percent of eligible expenditures
7 up to a maximum credit of one million dollars. Any taxpayer that claims a
8 tax credit shall not be required to pay any additional retaliatory tax
9 under section 44-150 as a result of claiming such tax credit. Any tax
10 credit claimed under this section shall be considered a payment of tax
11 for purposes of subsection (1) of section 77-2734.03.

12 (2) To claim the credit authorized under this section, a person must
13 first apply and receive an allocation of credits and application approval
14 under section 77-2905 and then request and receive final approval under
15 section 77-2906.

16 (3) Interest shall not be allowed on any refund paid under the
17 Nebraska Job Creation and Mainstreet Revitalization Act.

18 Sec. 12. Section 77-2905, Revised Statutes Cumulative Supplement,
19 2014, is amended to read:

20 77-2905 (1) Prior to commencing work on the historically significant
21 real property, a person shall file an application for credits under the
22 Nebraska Job Creation and Mainstreet Revitalization Act containing all
23 required information with the officer on a form prescribed by the officer
24 and shall include an application fee established by the officer pursuant
25 to section 77-2907. The officer shall not accept any application for
26 credits prior to January 1, 2015. The application shall include plans and
27 specifications, an estimate of the cost of the project prepared by a
28 licensed architect, licensed engineer, or licensed contractor, and a
29 request for a specific amount of credits based on such estimate. The
30 officer shall review the application and, within twenty-one days after
31 receiving the application, shall determine whether the information

1 contained therein is complete. The officer shall notify the applicant in
2 writing of the determination within five business days after making the
3 determination. If the officer fails to provide such notification as
4 required, the application shall be deemed complete as of the twenty-first
5 day after the application is received by the officer. If the officer
6 determines the application is complete or if the application is deemed
7 complete pursuant to this section, the officer shall reserve for the
8 benefit of the applicant an allocation of credits in the amount specified
9 in the application and determined by the officer to be reasonable and
10 shall notify the applicant in writing of the amount of the allocation.
11 The allocation does not entitle the applicant to an issuance of credits
12 until the applicant complies with all other requirements of the Nebraska
13 Job Creation and Mainstreet Revitalization Act for the issuance of
14 credits. The date the officer determines the application is complete or
15 the date the application is deemed complete pursuant to this section
16 shall constitute the applicant's priority date for purposes of allocating
17 credits under this section. For complete applications receiving an
18 allocation under this section, the officer shall determine whether the
19 application conforms to the standards, and, if so, the officer shall
20 approve such application or approve such application with conditions. If
21 the application does not conform to the standards, the officer shall deny
22 such application. The officer shall promptly provide the person filing
23 the application and the department with written notice of the officer's
24 determination. If the officer does not provide a written notice of his or
25 her determination within thirty days after the date the application is
26 determined or deemed to be complete pursuant to this section, the
27 application shall be deemed approved. The officer shall notify the
28 department of any applications that are deemed approved pursuant to this
29 section. If the officer denies the application, the credits allocated to
30 the applicant under this subsection shall be added to the annual amount
31 available for allocation under subsection (2) of this section. Any denial

1 of an application by the officer pursuant to this section may be
2 appealed, and the appeal shall be in accordance with the Administrative
3 Procedure Act.

4 (2) For calendar years beginning before January 1, 2017, the The
5 total amount of credits that may be allocated by the officer under this
6 section in any calendar year shall be limited to fifteen million dollars.
7 For calendar years beginning on or after January 1, 2017, the total
8 amount of credits that may be allocated by the officer under this section
9 in any calendar year shall be limited to fifteen million dollars, of
10 which four million dollars shall be reserved for applications seeking an
11 allocation of credits of less than one hundred thousand dollars. If the
12 amount of credits allocated in any calendar year is less than fifteen
13 million dollars, the unused amount shall be carried forward to subsequent
14 years and shall be available for allocation in subsequent years until
15 fully utilized, except as otherwise provided in section 77-2912. If the
16 amount of credits reserved for applications seeking an allocation of
17 credits of less than one hundred thousand dollars is not allocated by
18 April 1 of any calendar year, such unallocated credits for the calendar
19 year shall be available for any application seeking an allocation of
20 credits based upon the applicant's priority date as determined by the
21 officer. The officer shall allocate credits based on priority date, from
22 earliest to latest. If the officer determines that the complete
23 applications for credits in any calendar year exceed the maximum amount
24 of credits available under this section for that year, only those
25 applications with a priority date on or before the date on which the
26 officer makes that determination may receive an allocation in that year,
27 and the officer shall not make additional allocations until sufficient
28 credits are available. If the officer suspends allocations of credits
29 pursuant to this section, applications with priority dates on or before
30 the date of such suspension shall retain their priority dates. Once
31 additional credits are available for allocation, the officer shall once

1 again allocate credits based on priority date, from earliest to latest,
2 even if the priority dates are from a prior calendar year.

3 (3) Prior to December 1 of any year, the holder of an allocation of
4 credits under this section who has not commenced the improvements in his
5 or her approved application shall notify the officer of his or her intent
6 to retain or release the allocation. Any released allocation shall be
7 added to the aggregate amount of credits available for allocation in the
8 following year. Any holder of an allocation who fails to timely notify
9 the officer of such intent shall be deemed to have released the
10 allocation.

11 (4) The holder of an allocation of credits whose application was
12 approved under this section shall start substantial work pursuant to the
13 approved application within twenty-four months after receiving notice of
14 approval of the application or, if no notice of approval is sent by the
15 officer, within twenty-four months after the application is deemed
16 approved pursuant to this section. Failure to comply with this subsection
17 shall result in forfeiture of the allocation of credits received under
18 this section. Any such forfeited allocation shall be added to the
19 aggregate amount of credits available for allocation for the year in
20 which the forfeiture occurred.

21 (5) Notwithstanding subsection (1) of this section, the person
22 applying for the credit under this section may, at its own risk, incur
23 eligible expenditures up to six months prior to the submission of the
24 application required under subsection (1) of this section if such
25 eligible expenditures are limited to architectural fees, accounting and
26 legal fees, and any costs related to the protection of the historically
27 significant real property from deterioration.

28 Sec. 13. Section 77-2909, Revised Statutes Cumulative Supplement,
29 2014, is amended to read:

30 77-2909 (1) Persons who receive the original issuance of credits
31 from the department under section 77-2906 may transfer, sell, or assign

1 up to fifty percent of such credits to any person or legal entity. If the
2 person who receives the original issuance of credits from the department
3 is a political subdivision or a tax-exempt entity under section 501(c)(3)
4 of the Internal Revenue Code of 1986, as amended, such fifty-percent
5 limitation shall not apply.

6 (2) The credits allowed to be transferred, sold, or assigned
7 pursuant to subsection (1) of this section may thereafter be transferred,
8 sold, or assigned multiple times, either in whole or in part, by or to
9 any person or legal entity.

10 (3) Any person acquiring credits under this section may use such
11 credits to offset up to one hundred percent of such person's income tax
12 due under the Nebraska Revenue Act of 1967 or any tax due under sections
13 44-101 to 44-165, 77-907 to 77-918, or 77-3801 to 77-3807 in the year the
14 historically significant real property is placed in service and in
15 subsequent years until all credits have been utilized, except as
16 otherwise provided in section 77-2912. Any taxpayer that claims a tax
17 credit shall not be required to pay any additional retaliatory tax under
18 section 44-150 as a result of claiming such tax credit. Any tax credit
19 claimed shall be considered a payment of tax for purposes of subsection
20 (1) of section 77-2734.03.

21 (4) The person transferring, selling, or assigning the credits shall
22 notify the officer and the department in writing within fifteen calendar
23 days following the effective date of the transfer, sale, or assignment
24 and shall remit to the department the certificate issued for the credits
25 that were transferred, sold, or assigned. The department shall then issue
26 new certificates as necessary to effectuate the transfer, sale, or
27 assignment. The issuance of the new credits by the department shall
28 perfect the transfer, sale, or assignment of credits.

29 (5) The department shall develop a system to track the transfer,
30 sale, and assignment of credits and to certify the ownership of the
31 credits.

1 (6) The department shall have, with respect to the Nebraska Job
2 Creation and Mainstreet Revitalization Act, all authority granted to it
3 in section 77-27,119.

4 Sec. 14. Sections 1, 2, 7, 8, 9, 10, and 16 of this act become
5 operative three calendar months after the adjournment of this legislative
6 session. Sections 3, 4, 5, 6, and 17 of this act become operative on
7 October 1, 2016. The other sections of this act become operative on their
8 effective date.

9 Sec. 15. Original sections 77-2905 and 77-2909, Revised Statutes
10 Cumulative Supplement, 2014, and section 77-2904, Revised Statutes
11 Supplement, 2015, are repealed.

12 Sec. 16. Original section 3-613, Reissue Revised Statutes of
13 Nebraska, sections 77-2717 and 77-2734.03, Revised Statutes Cumulative
14 Supplement, 2014, and sections 77-2701 and 77-2715.07, Revised Statutes
15 Supplement, 2015, are repealed.

16 Sec. 17. Original section 77-2704.56, Reissue Revised Statutes of
17 Nebraska, sections 77-2704.12 and 77-2704.13, Revised Statutes Cumulative
18 Supplement, 2014, and section 77-2704.15, Revised Statutes Supplement,
19 2015, are repealed.

20 Sec. 18. Since an emergency exists, this act takes effect when
21 passed and approved according to law.