

LEGISLATURE OF NEBRASKA
ONE HUNDRED SECOND LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 627

Introduced by Mello, 5.

Read first time January 19, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-2715.07, 77-2734.03, 81-1558, and 81-1561, Reissue
3 Revised Statutes of Nebraska, and section 81-15,160,
4 Revised Statutes Cumulative Supplement, 2010; to adopt
5 the Remanufacturing and Job Creation Act; to provide an
6 income tax credit for recycled or composted materials; to
7 provide a termination date; to provide funding; to
8 harmonize provisions; to provide operative dates; and to
9 repeal the original sections.
10 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and
2 may be cited as the Remanufacturing and Job Creation Act.

3 Sec. 2. For purposes of the Remanufacturing and Job
4 Creation Act:

5 (1) Base year means the calendar year immediately
6 preceding the year during which the application was submitted;

7 (2) Governmental unit means a school district, community
8 college area, village, city, county, or natural resources district;

9 (3) Recycle means to process, reclaim, treat, neutralize,
10 or re-refine waste materials and byproducts into usable commodities
11 or products of beneficial use; and

12 (4) Statewide average tipping fee means the average fee
13 charged per ton for solid waste disposal in the state in the prior
14 calendar year as determined by the Department of Environmental
15 Quality.

16 Sec. 3. A taxpayer, nonprofit organization, or
17 governmental unit shall earn a recovered resource income tax credit
18 for each ton of material recycled or composted in Nebraska in excess
19 of the amount of material recycled or composted in Nebraska by the
20 taxpayer, nonprofit organization, or governmental unit in the base
21 year. The per-ton credit shall equal the statewide average tipping
22 fee. The tax credit shall be refundable and transferable. A taxpayer,
23 nonprofit organization, or governmental unit shall file an
24 application for the recovered resource income tax credit with the
25 Department of Environmental Quality. No tax credit shall be allowed

1 unless an application is filed and approved.

2 Sec. 4. If the Department of Environmental Quality
3 determines that the application meets the requirements of the
4 Remanufacturing and Job Creation Act, the department shall approve
5 the application, determine the base-year tonnage amount, set the tax-
6 year tonnage amount used to determine the tentative tax credit,
7 authorize a tentative tax credit to the applicant within the limit
8 set forth in this section, and certify to the applicant and the
9 Department of Revenue the amount of tentative tax credit reserved for
10 the applicant. No tax credit shall be allowed if the applicant fails
11 to meet or exceed the tax-year tonnage amount established during the
12 application process. Applications for tax credits shall be considered
13 in the order in which they are received. Applications may be filed at
14 any time on or after the beginning of the tax year for which the
15 tentative tax credit is to be claimed.

16 Sec. 5. The Department of Environmental Quality may
17 approve applications for recovered resource income tax credits for up
18 to the amount available in the Recovered Resource Income Tax Credit
19 Fund for each calendar year. An application for a tax credit for a
20 tax year other than a calendar year shall be applied against the
21 limit for the calendar year during which the tax year of the
22 applicant ends. After applications for tax credits totaling the
23 amount available in the fund have been approved for a calendar year,
24 no further applications shall be approved for that calendar year. Tax
25 credits shall be prorated among the approved applications filed on

1 the day the limit is exceeded.

2 Sec. 6. Any recovered resource income tax credit
3 allowable to a partnership, a limited liability company, a subchapter
4 S corporation, a cooperative, including a cooperative exempt under
5 section 521 of the Internal Revenue Code of 1986, as amended, a
6 limited cooperative association, or an estate or trust may be
7 distributed to the partners, members, shareholders, patrons, or
8 beneficiaries in the same manner as income is distributed for use
9 against their income tax liabilities.

10 Sec. 7. The Department of Revenue and the Department of
11 Environmental Quality may adopt and promulgate rules and regulations
12 to carry out the Remanufacturing and Job Creation Act, including
13 rules and regulations to permit verification of the validity of any
14 recovered resource income tax credit claimed.

15 Sec. 8. The Recovered Resource Income Tax Credit Fund is
16 created. The Tax Commissioner shall certify the amount of recovered
17 resource income tax credits used each year to the State Treasurer.
18 Within ten days after the certification, the State Treasurer shall
19 transfer that amount of funds from the Recovered Resource Income Tax
20 Credit Fund to the General Fund. Any funds reserved for tentative tax
21 credits that are not claimed shall be returned to the original fund
22 source in the same proportion as they were originally remitted to the
23 Recovered Resource Income Tax Credit Fund. Any money in the Recovered
24 Resource Income Tax Credit Fund available for investment shall be
25 invested by the state investment officer pursuant to the Nebraska

1 Capital Expansion Act and the Nebraska State Funds Investment Act.

2 Sec. 9. The Remanufacturing and Job Creation Act
3 terminates on December 31, 2021.

4 Sec. 10. Section 77-2715.07, Reissue Revised Statutes of
5 Nebraska, is amended to read:

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

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

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

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

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

20 (b) For returns filed reporting federal adjusted gross
21 income of twenty-nine thousand dollars or less, a refundable credit
22 equal to a percentage of the federal credit allowable under section
23 21 of the Internal Revenue Code of 1986, as amended, whether or not
24 the federal credit was limited by the federal tax liability. The
25 percentage of the federal credit shall be one hundred percent for

1 incomes not greater than twenty-two thousand dollars, and the
2 percentage shall be reduced by ten percent for each one thousand
3 dollars, or fraction thereof, by which the reported federal adjusted
4 gross income exceeds twenty-two thousand dollars;

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

11 (d) A refundable credit for individuals who qualify for
12 an income tax credit under the Nebraska Advantage Microenterprise Tax
13 Credit Act, ~~or~~ the Nebraska Advantage Research and Development Act,
14 or the Remanufacturing and Job Creation Act; and

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

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

21 (a) A credit for personal exemptions allowed under
22 section 77-2716.01;

23 (b) A credit for contributions to certified community
24 betterment programs as provided in the Community Development
25 Assistance Act. Each partner, each shareholder of an electing

1 subchapter S corporation, each beneficiary of an estate or trust, or
2 each member of a limited liability company shall report his or her
3 share of the credit in the same manner and proportion as he or she
4 reports the partnership, subchapter S corporation, estate, trust, or
5 limited liability company income; and

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

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

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

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

15 (c) A refundable credit for individuals who qualify for
16 an income tax credit as an owner of agricultural assets under the
17 Beginning Farmer Tax Credit Act for all taxable years beginning or
18 deemed to begin on or after January 1, 2009, under the Internal
19 Revenue Code of 1986, as amended. The credit allowed for each
20 partner, shareholder, member, or beneficiary of a partnership,
21 corporation, limited liability company, or estate or trust qualifying
22 for an income tax credit as an owner of agricultural assets under the
23 Beginning Farmer Tax Credit Act shall be equal to the partner's,
24 shareholder's, member's, or beneficiary's portion of the amount of
25 tax credit distributed pursuant to subsection (4) of section 77-5211.

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

11 (b) For all taxable years beginning on or after January
12 1, 2009, under the Internal Revenue Code of 1986, as amended, there
13 shall be allowed to each partner, shareholder, member, or beneficiary
14 of a partnership, subchapter S corporation, limited liability
15 company, or estate or trust a nonrefundable credit against the income
16 tax imposed by the Nebraska Revenue Act of 1967 equal to the
17 partner's, shareholder's, member's, or beneficiary's portion of the
18 amount of franchise tax paid to the state under sections 77-3801 to
19 77-3807 by a financial institution.

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

1 back.

2 Sec. 11. Section 77-2734.03, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 77-2734.03 (1)(a) For taxable years commencing prior to
5 January 1, 1997, any (i) insurer paying a tax on premiums and
6 assessments pursuant to section 77-908 or 81-523, (ii) electric
7 cooperative organized under the Joint Public Power Authority Act, or
8 (iii) credit union shall be credited, in the computation of the tax
9 due under the Nebraska Revenue Act of 1967, with the amount paid
10 during the taxable year as taxes on such premiums and assessments and
11 taxes in lieu of intangible tax.

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

21 (c) For taxable years commencing or deemed to commence
22 prior to, on, or after January 1, 1998, any insurer paying a tax on
23 premiums and assessments pursuant to section 77-908 or 81-523 shall
24 be credited, in the computation of the tax due under the Nebraska
25 Revenue Act of 1967, with the amount paid during the taxable year as

1 assessments allowed as an offset against premium and related
2 retaliatory tax liability pursuant to section 44-4233.

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

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

10 (4) The changes made to this section by Laws 2004, LB
11 983, apply to motor fuels purchased during any tax year ending or
12 deemed to end on or after January 1, 2005, under the Internal Revenue
13 Code of 1986, as amended.

14 (5) There shall be allowed to corporate taxpayers
15 refundable income tax credits under the Nebraska Advantage
16 Microenterprise Tax Credit Act, ~~and~~ the Nebraska Advantage Research
17 and Development Act, and the Remanufacturing and Job Creation Act.

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

21 Sec. 12. Section 81-1558, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-1558 There is hereby created within the state treasury
24 a fund to be known as the Nebraska Litter Reduction and Recycling
25 Fund. The proceeds of the fee imposed by sections 81-1559 to

1 81-1560.02, money received by the department as gifts, donations, or
2 contributions toward the goals stated in section 81-1535, and money
3 received by the department for nonprofit activities concerning litter
4 reduction and recycling, including, but not limited to, honoraria,
5 literature furnished by the department, and funds realized as
6 reimbursement for expenses in conducting educational forums, shall be
7 remitted to the State Treasurer for credit to such fund to be used
8 for the administration and enforcement of the Nebraska Litter
9 Reduction and Recycling Act and to provide funding for the tax credit
10 provided for in the Remanufacturing and Job Creation Act. Any money
11 in the fund available for investment shall be invested by the state
12 investment officer pursuant to the Nebraska Capital Expansion Act and
13 the Nebraska State Funds Investment Act.

14 Sec. 13. Section 81-1561, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 81-1561 (1) The Tax Commissioner shall deduct and
17 withhold from the litter fee collected a fee sufficient to reimburse
18 himself or herself for the cost of collecting and administering the
19 litter fee and shall deposit such collection fee in the Litter Fee
20 Collection Fund which is hereby created. The Litter Fee Collection
21 Fund shall be appropriated to the Department of Revenue. Any money in
22 the Litter Fee Collection Fund available for investment shall be
23 invested by the state investment officer pursuant to the Nebraska
24 Capital Expansion Act and the Nebraska State Funds Investment Act.

25 (2) The Tax Commissioner shall remit the balance of the

1 litter fee collections to the Department of Environmental Quality.
2 ~~The department shall allocate and distribute funds from Ten percent~~
3 ~~of the funds in the Nebraska Litter Reduction and Recycling Fund on~~
4 ~~an annual basis shall be used to fund the tax credit provided for in~~
5 ~~the Remanufacturing and Job Creation Act. The department shall~~
6 ~~allocate and distribute the remaining funds in~~ percentage amounts to
7 be determined by the council on an annual basis, after a public
8 hearing on a date to be determined by the council, for the following
9 activities:

10 (a) Programs of public education, motivation, and
11 participation aimed at creating an ethic conducive to the reduction
12 of litter, establishing an attitude against littering and a desire
13 for a clean environment, and securing greater awareness of and
14 compliance with antilitter laws. Such programs shall include:

15 (i) The distribution of informative materials to
16 elementary and secondary schools;

17 (ii) The purchase and erection of roadside signs;

18 (iii) The organization and operation of cleanup drives
19 conducted by local agencies and organizations using volunteer help;

20 (iv) Grants to state and local government units and
21 agencies and private organizations for developing and conducting
22 antilitter programs; and

23 (v) Any other public information method selected by the
24 department, including the use of media;

25 (b) Cleanup of public highways, waterways, recreation

1 lands, urban areas, and public places within the state, including,
2 but not limited to:

3 (i) Grants to cities and counties for payment of
4 personnel employed in the pickup of litter;

5 (ii) Grants for programs aimed at increasing the use of
6 youth and unemployed persons in seasonal and part-time litter pickup
7 programs and to establish work release and other programs to carry
8 out the purposes of the Nebraska Litter Reduction and Recycling Act;

9 (iii) Grants to public and private agencies and persons
10 to conduct surveys of amounts and composition of litter and rates of
11 littering; and

12 (iv) Grants to public and private agencies and persons
13 for research and development in the fields of litter reduction,
14 removal, and disposal, including the evaluation of behavioral science
15 techniques in litter control and the development of new equipment,
16 and to implement such research and development when appropriate; and

17 (c) New or improved community recycling and source
18 separation programs, including, but not limited to:

19 (i) Expansion of existing and creation of new community
20 recycling centers;

21 (ii) Expansion of existing and creation of new source
22 separation programs;

23 (iii) Research and evaluation of markets for the
24 materials and products recovered in source separation and recycling
25 programs; and

1 (iv) Providing advice and assistance on matters relating
2 to recycling and source separation, including information and
3 consultation on available technology, operating procedures,
4 organizational arrangements, markets for materials and products
5 recovered in recycling and source separation, transportation
6 alternatives, and publicity techniques.

7 Sec. 14. Section 81-15,160, Revised Statutes Cumulative
8 Supplement, 2010, is amended to read:

9 81-15,160 (1) The Waste Reduction and Recycling Incentive
10 Fund is created. The department shall deduct from the fund amounts
11 sufficient to reimburse itself for its costs of administration of the
12 fund. The fund shall be administered by the Department of
13 Environmental Quality. The fund shall consist of proceeds from the
14 fees imposed pursuant to the Waste Reduction and Recycling Incentive
15 Act.

16 (2) The fund may be used for purposes which include, but
17 are not limited to:

18 (a) Technical and financial assistance to political
19 subdivisions for creation of recycling systems and for modification
20 of present recycling systems;

21 (b) Recycling and waste reduction projects, including
22 public education, planning, and technical assistance;

23 (c) Market development for recyclable materials separated
24 by generators, including public education, planning, and technical
25 assistance;

1 (d) Capital assistance for establishing private and
2 public intermediate processing facilities for recyclable materials
3 and facilities using recyclable materials in new products;

4 (e) Programs which develop and implement composting of
5 yard waste and composting with sewage sludge;

6 (f) Technical assistance for waste reduction and waste
7 exchange for waste generators;

8 (g) Programs to assist communities and counties to
9 develop and implement household hazardous waste management programs;

10 (h) Capital assistance for establishing private and
11 public facilities to manufacture combustible waste products and to
12 incinerate combustible waste to generate and recover energy
13 resources, except that no disbursements shall be made under this
14 section for scrap tire processing related to tire-derived fuel; ~~and~~

15 (i) Grants for reimbursement of costs to cities of the
16 second class, villages, and counties of five thousand or fewer
17 population for the deconstruction of abandoned buildings. Eligible
18 deconstruction costs will be related to the recovery and processing
19 of recyclable or reusable material from the abandoned buildings;
20 and -

21 (j) Funding for the tax credit provided for in the
22 Remanufacturing and Job Creation Act. Ten percent of the money in the
23 fund on an annual basis shall be used for such purpose.

24 (3) Grants up to one million dollars annually shall be
25 available until June 30, 2014, for new scrap tire projects only, if

1 acceptable scrap tire project applications are received. Eligible
2 categories of disbursement under section 81-15,161 may include, but
3 are not limited to:

4 (a) Reimbursement for the purchase of crumb rubber
5 generated and used in Nebraska, with disbursements not to exceed
6 fifty percent of the cost of the crumb rubber;

7 (b) Reimbursement for the purchase of tire-derived
8 product which utilizes a minimum of twenty-five percent recycled tire
9 content, with disbursements not to exceed twenty-five percent of the
10 product's retail cost, except that persons who applied for a grant
11 between June 1, 1999, and May 31, 2001, for the purchase of tire-
12 derived product which utilizes a minimum of twenty-five percent
13 recycled tire content may apply for reimbursement on or before July
14 1, 2002. Reimbursement shall not exceed twenty-five percent of the
15 product's retail cost and may be funded in fiscal years 2001-02 and
16 2002-03;

17 (c) Participation in the capital costs of building,
18 equipment, and other capital improvement needs or startup costs for
19 scrap tire processing or manufacturing of tire-derived product, with
20 disbursements not to exceed fifty percent of such costs or five
21 hundred thousand dollars, whichever is less;

22 (d) Participation in the capital costs of building,
23 equipment, or other startup costs needed to establish collection
24 sites or to collect and transport scrap tires, with disbursements not
25 to exceed fifty percent of such costs;

1 (e) Cost-sharing for the manufacturing of tire-derived
2 product, with disbursements not to exceed twenty dollars per ton or
3 two hundred fifty thousand dollars, whichever is less, to any person
4 annually;

5 (f) Cost-sharing for the processing of scrap tires, with
6 disbursements not to exceed twenty dollars per ton or two hundred
7 fifty thousand dollars, whichever is less, to any person annually;

8 (g) Cost-sharing for the use of scrap tires for civil
9 engineering applications for specified projects, with disbursements
10 not to exceed twenty dollars per ton or two hundred fifty thousand
11 dollars, whichever is less, to any person annually; and

12 (h) Disbursement to a political subdivision up to one
13 hundred percent of costs incurred in cleaning up scrap tire
14 collection and disposal sites.

15 The director shall give preference to projects which
16 utilize scrap tires generated and used in Nebraska.

17 (4) Priority for grants made under section 81-15,161
18 shall be given to grant proposals demonstrating a formal public/
19 private partnership except for grants awarded from fees collected
20 under subsection (6) of section 13-2042.

21 (5) Grants awarded from fees collected under subsection
22 (6) of section 13-2042 may be renewed for up to a five-year grant
23 period. Such applications shall include an updated integrated solid
24 waste management plan pursuant to section 13-2032. Annual
25 disbursements are subject to available funds and the grantee meeting

1 established grant conditions. Priority for such grants shall be given
2 to grant proposals showing regional participation and programs which
3 address the first integrated solid waste management hierarchy as
4 stated in section 13-2018 which shall include toxicity reduction.
5 Disbursements for any one year shall not exceed fifty percent of the
6 total fees collected after rebates under subsection (6) of section
7 13-2042 during that year.

8 (6) Any person who stores waste tires in violation of
9 section 13-2033, which storage is the subject of abatement or
10 cleanup, shall be liable to the State of Nebraska for the
11 reimbursement of expenses of such abatement or cleanup paid by the
12 Department of Environmental Quality.

13 (7) The Department of Environmental Quality may receive
14 gifts, bequests, and any other contributions for deposit in the Waste
15 Reduction and Recycling Incentive Fund. Transfers may be made from
16 the fund to the General Fund at the direction of the Legislature. Any
17 money in the Waste Reduction and Recycling Incentive Fund available
18 for investment shall be invested by the state investment officer
19 pursuant to the Nebraska Capital Expansion Act and the Nebraska State
20 Funds Investment Act.

21 Sec. 15. Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and
22 16 of this act become operative for all taxable years beginning or
23 deemed to begin on or after January 1, 2012, under the Internal
24 Revenue Code of 1986, as amended. Sections 12, 13, 14, 15, and 17 of
25 this act become operative on their effective date.

1 Sec. 16. Original sections 77-2715.07 and 77-2734.03,
2 Reissue Revised Statutes of Nebraska, are repealed.

3 Sec. 17. Original sections 81-1558 and 81-1561, Reissue
4 Revised Statutes of Nebraska, and section 81-15,160, Revised Statutes
5 Cumulative Supplement, 2010, are repealed.