

AMENDMENTS TO LB233

(Amendments to Standing Committee amendments, AM127)

Introduced by Smith, 14.

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

3           Section 1. Section 77-202, Revised Statutes Cumulative Supplement,  
4 2016, is amended to read:

5           77-202 (1) The following property shall be exempt from property  
6 taxes:

7           (a) Property of the state and its governmental subdivisions to the  
8 extent used or being developed for use by the state or governmental  
9 subdivision for a public purpose. For purposes of this subdivision:

10           (i) Property of the state and its governmental subdivisions means  
11 (A) property held in fee title by the state or a governmental subdivision  
12 or (B) property beneficially owned by the state or a governmental  
13 subdivision in that it is used for a public purpose and is being acquired  
14 under a lease-purchase agreement, financing lease, or other instrument  
15 which provides for transfer of legal title to the property to the state  
16 or a governmental subdivision upon payment of all amounts due thereunder.  
17 If the property to be beneficially owned by a governmental subdivision  
18 has a total acquisition cost that exceeds the threshold amount or will be  
19 used as the site of a public building with a total estimated construction  
20 cost that exceeds the threshold amount, then such property shall qualify  
21 for an exemption under this section only if the question of acquiring  
22 such property or constructing such public building has been submitted at  
23 a primary, general, or special election held within the governmental  
24 subdivision and has been approved by the voters of the governmental  
25 subdivision. For purposes of this subdivision, threshold amount means the  
26 greater of fifty thousand dollars or six-tenths of one percent of the

1 total actual value of real and personal property of the governmental  
2 subdivision that will beneficially own the property as of the end of the  
3 governmental subdivision's prior fiscal year; and

4 (ii) Public purpose means use of the property (A) to provide public  
5 services with or without cost to the recipient, including the general  
6 operation of government, public education, public safety, transportation,  
7 public works, civil and criminal justice, public health and welfare,  
8 developments by a public housing authority, parks, culture, recreation,  
9 community development, and cemetery purposes, or (B) to carry out the  
10 duties and responsibilities conferred by law with or without  
11 consideration. Public purpose does not include leasing of property to a  
12 private party unless the lease of the property is at fair market value  
13 for a public purpose. Leases of property by a public housing authority to  
14 low-income individuals as a place of residence are for the authority's  
15 public purpose;

16 (b) Unleased property of the state or its governmental subdivisions  
17 which is not being used or developed for use for a public purpose but  
18 upon which a payment in lieu of taxes is paid for public safety, rescue,  
19 and emergency services and road or street construction or maintenance  
20 services to all governmental units providing such services to the  
21 property. Except as provided in Article VIII, section 11, of the  
22 Constitution of Nebraska, the payment in lieu of taxes shall be based on  
23 the proportionate share of the cost of providing public safety, rescue,  
24 or emergency services and road or street construction or maintenance  
25 services unless a general policy is adopted by the governing body of the  
26 governmental subdivision providing such services which provides for a  
27 different method of determining the amount of the payment in lieu of  
28 taxes. The governing body may adopt a general policy by ordinance or  
29 resolution for determining the amount of payment in lieu of taxes by  
30 majority vote after a hearing on the ordinance or resolution. Such  
31 ordinance or resolution shall nevertheless result in an equitable

1 contribution for the cost of providing such services to the exempt  
2 property;

3 (c) Property owned by and used exclusively for agricultural and  
4 horticultural societies;

5 (d) Property owned by educational, religious, charitable, or  
6 cemetery organizations, or any organization for the exclusive benefit of  
7 any such educational, religious, charitable, or cemetery organization,  
8 and used exclusively for educational, religious, charitable, or cemetery  
9 purposes, when such property is not (i) owned or used for financial gain  
10 or profit to either the owner or user, (ii) used for the sale of  
11 alcoholic liquors for more than twenty hours per week, or (iii) owned or  
12 used by an organization which discriminates in membership or employment  
13 based on race, color, or national origin. For purposes of this  
14 subdivision, educational organization means (A) an institution operated  
15 exclusively for the purpose of offering regular courses with systematic  
16 instruction in academic, vocational, or technical subjects or assisting  
17 students through services relating to the origination, processing, or  
18 guarantying of federally reinsured student loans for higher education or  
19 (B) a museum or historical society operated exclusively for the benefit  
20 and education of the public. For purposes of this subdivision, charitable  
21 organization includes an organization operated exclusively for the  
22 purpose of the mental, social, or physical benefit of the public or an  
23 indefinite number of persons and a fraternal benefit society organized  
24 and licensed under sections 44-1072 to 44-10,109; and

25 (e) Household goods and personal effects not owned or used for  
26 financial gain or profit to either the owner or user.

27 (2) The increased value of land by reason of shade and ornamental  
28 trees planted along the highway shall not be taken into account in the  
29 valuation of land.

30 (3) Tangible personal property which is not depreciable tangible  
31 personal property as defined in section 77-119 shall be exempt from

1 property tax.

2 (4) Motor vehicles, trailers, and semitrailers required to be  
3 registered for operation on the highways of this state shall be exempt  
4 from payment of property taxes.

5 (5) Business and agricultural inventory shall be exempt from the  
6 personal property tax. For purposes of this subsection, business  
7 inventory includes personal property owned for purposes of leasing or  
8 renting such property to others for financial gain only if the personal  
9 property is of a type which in the ordinary course of business is leased  
10 or rented thirty days or less and may be returned at the option of the  
11 lessee or renter at any time and the personal property is of a type which  
12 would be considered household goods or personal effects if owned by an  
13 individual. All other personal property owned for purposes of leasing or  
14 renting such property to others for financial gain shall not be  
15 considered business inventory.

16 (6) Any personal property exempt pursuant to subsection (2) of  
17 section 77-4105 or section 77-5209.02 shall be exempt from the personal  
18 property tax.

19 (7) Livestock shall be exempt from the personal property tax.

20 (8) Any personal property exempt pursuant to the Nebraska Advantage  
21 Act shall be exempt from the personal property tax.

22 (9) Any depreciable tangible personal property used directly in the  
23 generation of electricity using wind as the fuel source shall be exempt  
24 from the property tax levied on depreciable tangible personal property.  
25 Any depreciable tangible personal property used directly in the  
26 generation of electricity using solar, biomass, or landfill gas as the  
27 fuel source shall be exempt from the property tax levied on depreciable  
28 tangible personal property if such depreciable tangible personal property  
29 was installed on or after January 1, 2016, and has a nameplate capacity  
30 of one hundred kilowatts or more. Depreciable tangible personal property  
31 used directly in the generation of electricity using wind, solar,

1 biomass, or landfill gas as the fuel source includes, but is not limited  
2 to, wind turbines, rotors and blades, towers, solar panels, trackers,  
3 generating equipment, transmission components, substations, supporting  
4 structures or racks, inverters, and other system components such as  
5 wiring, control systems, switchgears, and generator step-up transformers.

6 (10) Any tangible personal property that is acquired by a person  
7 operating a data center located in this state, that is assembled,  
8 engineered, processed, fabricated, manufactured into, attached to, or  
9 incorporated into other tangible personal property, both in component  
10 form or that of an assembled product, for the purpose of subsequent use  
11 at a physical location outside this state by the person operating a data  
12 center shall be exempt from the personal property tax. Such exemption  
13 extends to keeping, retaining, or exercising any right or power over  
14 tangible personal property in this state for the purpose of subsequently  
15 transporting it outside this state for use thereafter outside this state.  
16 For purposes of this subsection, data center means computers, supporting  
17 equipment, and other organized assembly of hardware or software that are  
18 designed to centralize the storage, management, or dissemination of data  
19 and information, environmentally controlled structures or facilities or  
20 interrelated structures or facilities that provide the infrastructure for  
21 housing the equipment, such as raised flooring, electricity supply,  
22 communication and data lines, Internet access, cooling, security, and  
23 fire suppression, and any building housing the foregoing.

24 (11) For each person who owns property required to be reported to  
25 the county assessor under section 77-1201, there shall be allowed, for  
26 each tax year excluding tax years 2018 and 2019, an exemption amount as  
27 provided in the Personal Property Tax Relief Act. For each person who  
28 owns property required to be valued by the state as provided in section  
29 77-601, 77-682, 77-801, or 77-1248, there shall be allowed, for each tax  
30 year excluding tax years 2018 and 2019, a compensating exemption factor  
31 as provided in the Personal Property Tax Relief Act.

1           Sec. 2. Section 77-693, Revised Statutes Cumulative Supplement,  
2 2016, is amended to read:

3           77-693 (1) The Property Tax Administrator in determining the taxable  
4 value of railroads and car lines shall determine the following ratios  
5 involving railroad and car line property and commercial and industrial  
6 property:

7           (a) The ratio of the taxable value of all commercial and industrial  
8 personal property in the state actually subjected to property tax divided  
9 by the market value of all commercial and industrial personal property in  
10 the state;

11           (b) The ratio of the taxable value of all commercial and industrial  
12 real property in the state actually subjected to property tax divided by  
13 the market value of all commercial and industrial real property in the  
14 state;

15           (c) The ratio of the taxable value of railroad personal property to  
16 the market value of railroad personal property. The numerator of the  
17 ratio shall be the taxable value of railroad personal property. The  
18 denominator of the ratio shall be the railroad system value allocated to  
19 Nebraska and multiplied by a factor representing the net book value of  
20 rail transportation personal property divided by the net book value of  
21 total rail transportation property;

22           (d) The ratio of the taxable value of railroad real property to the  
23 market value of railroad real property. The numerator of the ratio shall  
24 be the taxable value of railroad real property. The denominator of the  
25 ratio shall be the railroad system value allocated to Nebraska and  
26 multiplied by a factor representing the net book value of rail  
27 transportation real property divided by the net book value of total rail  
28 transportation property; and

29           (e) Similar calculations shall be made for car line taxable  
30 properties.

31           (2) If the ratio of the taxable value of railroad and car line

1 personal or real property exceeds the ratio of the comparable taxable  
2 commercial and industrial property by more than five percent, the  
3 Property Tax Administrator may adjust the value of such railroad and car  
4 line property to the percentage of the comparable taxable commercial and  
5 industrial property pursuant to federal statute or Nebraska federal court  
6 decisions applicable thereto.

7 (3) For purposes of this section, commercial and industrial property  
8 shall mean all real and personal property which is devoted to commercial  
9 or industrial use other than rail transportation property and land used  
10 primarily for agricultural purposes.

11 (4) For each tax year excluding tax years 2018 and 2019, after After  
12 the adjustment made pursuant to subsections (1) and (2) of this section,  
13 the Property Tax Administrator shall multiply the value of the tangible  
14 personal property of each railroad and car line by the compensating  
15 exemption factor calculated in section 77-1238.

16 Sec. 3. Section 77-801, Revised Statutes Cumulative Supplement,  
17 2016, is amended to read:

18 77-801 (1) All public service entities shall, on or before April 15  
19 of each year, furnish a statement specifying such information as may be  
20 required by the Property Tax Administrator on forms prescribed by the Tax  
21 Commissioner to determine and distribute the entity's total taxable value  
22 including the franchise value. All information reported by the public  
23 service entities, not available from any other public source, and any  
24 memorandum thereof shall be confidential and available to taxing  
25 officials only. For good cause shown, the Property Tax Administrator may  
26 allow an extension of time in which to file such statement. Such  
27 extension shall not exceed fifteen days after April 15.

28 (2) The returns of public service entities shall not be held to be  
29 conclusive as to the taxable value of the property, but the Property Tax  
30 Administrator shall, from all the information which he or she is able to  
31 obtain, find the taxable value of all such property, including tangible

1 property and franchises, and shall assess such property on the same basis  
2 as other property is required to be assessed.

3 (3) The county assessor shall assess all nonoperating property of  
4 any public service entity. A public service entity operating within the  
5 State of Nebraska shall, on or before January 1 of each year, report to  
6 the county assessor of each county in which it has situs all nonoperating  
7 property belonging to such entity which is not subject to assessment and  
8 assessed by the Property Tax Administrator under section 77-802.

9 (4) For each tax year excluding tax years 2018 and 2019, the The  
10 Property Tax Administrator shall multiply the value of the tangible  
11 personal property of each public service entity by the compensating  
12 exemption factor calculated in section 77-1238.

13 Sec. 4. Section 77-1238, Revised Statutes Cumulative Supplement,  
14 2016, is amended to read:

15 77-1238 (1) Except as provided in subsection (3) of this section,  
16 every Every person who is required to list his or her taxable tangible  
17 personal property as defined in section 77-105, as required under section  
18 77-1229, shall receive an exemption from taxation for the first ten  
19 thousand dollars of valuation of his or her tangible personal property in  
20 each tax district as defined in section 77-127 in which a personal  
21 property return is required to be filed. Failure to report tangible  
22 personal property on the personal property return required by section  
23 77-1229 shall result in a forfeiture of the exemption for any tangible  
24 personal property not timely reported for that year.

25 (2) Except as provided in subsection (3) of this section, the The  
26 Property Tax Administrator shall reduce the value of the tangible  
27 personal property owned by each railroad, car line company, public  
28 service entity, and air carrier by a compensating exemption factor to  
29 reflect the exemption allowed in subsection (1) of this section for all  
30 other personal property taxpayers. The compensating exemption factor is  
31 calculated by multiplying the value of the tangible personal property of



1 the railroad, car line company, public service entity, or air carrier by  
2 a fraction, the numerator of which is the total amount of locally  
3 assessed tangible personal property that is actually subjected to  
4 property tax after the exemption allowed in subsection (1) of this  
5 section, and the denominator of which is the net book value of locally  
6 assessed tangible personal property prior to the exemptions allowed in  
7 subsection (1) of this section.

8 (3) No exemption shall be allowed under subsection (1) of this  
9 section and no reduction to property values shall be made under  
10 subsection (2) of this section for tax years 2018 and 2019.

11 Sec. 5. Section 77-1239, Revised Statutes Cumulative Supplement,  
12 2016, is amended to read:

13 77-1239 (1) Except as provided in subsection (4) of this section,  
14 reimbursement ~~Reimbursement~~ to taxing subdivisions for tax revenue that  
15 will be lost because of the personal property tax exemptions allowed in  
16 subsection (1) of section 77-1238 shall be as provided in this  
17 subsection. The county assessor and county treasurer shall, on or before  
18 November 30 of each year, certify to the Tax Commissioner, on forms  
19 prescribed by the Tax Commissioner, the total tax revenue that will be  
20 lost to all taxing subdivisions within his or her county from taxes  
21 levied and assessed in that year because of the personal property tax  
22 exemptions allowed in subsection (1) of section 77-1238. The county  
23 assessor and county treasurer may amend the certification to show any  
24 change or correction in the total tax revenue that will be lost until May  
25 30 of the next succeeding year. The Tax Commissioner shall, on or before  
26 January 1 next following the certification, notify the Director of  
27 Administrative Services of the amount so certified to be reimbursed by  
28 the state. Reimbursement of the tax revenue lost shall be made to each  
29 county according to the certification and shall be distributed in two  
30 approximately equal installments on the last business day of February and  
31 the last business day of June. The State Treasurer shall, on the business

1 day preceding the last business day of February and the last business day  
2 of June, notify the Director of Administrative Services of the amount of  
3 funds available in the General Fund to pay the reimbursement. The  
4 Director of Administrative Services shall, on the last business day of  
5 February and the last business day of June, draw warrants against funds  
6 appropriated. Out of the amount received, the county treasurer shall  
7 distribute to each of the taxing subdivisions within his or her county  
8 the full tax revenue lost by each subdivision, except that one percent of  
9 such amount shall be deposited in the county general fund.

10 (2) Except as provided in subsection (4) of this section,  
11 reimbursement ~~Reimbursement~~ to taxing subdivisions for tax revenue that  
12 will be lost because of the compensating exemption factor in subsection  
13 (2) of section 77-1238 shall be as provided in this subsection. The  
14 Property Tax Administrator shall establish the average tax rate that will  
15 be used for purposes of reimbursing taxing subdivisions pursuant to this  
16 subsection. The average tax rate shall be equal to the total property  
17 taxes levied in the state divided by the total taxable value of all  
18 taxable property in the state as certified pursuant to section  
19 77-1613.01. The Tax Commissioner shall certify, on or before January 30  
20 of each year, to the Director of Administrative Services the total  
21 valuation that will be lost to all taxing subdivisions within each county  
22 because of the compensating exemption factor in subsection (2) of section  
23 77-1238. Such amount, multiplied by the average tax rate calculated  
24 pursuant to this subsection, shall be the tax revenue to be reimbursed to  
25 the taxing subdivisions by the state. Reimbursement of the tax revenue  
26 lost for public service entities shall be made to each county according  
27 to the certification and shall be distributed among the taxing  
28 subdivisions within each county in the same proportion as all public  
29 service entity taxes levied by the taxing subdivisions. Reimbursement of  
30 the tax revenue lost for railroads shall be made to each county according  
31 to the certification and shall be distributed among the taxing

1 subdivisions within each county in the same proportion as all railroad  
2 taxes levied by taxing subdivisions. Reimbursement of the tax revenue  
3 lost for car line companies shall be distributed in the same manner as  
4 the taxes collected pursuant to section 77-684. Reimbursement of the tax  
5 revenue lost for air carriers shall be distributed in the same manner as  
6 the taxes collected pursuant to section 77-1250.

7 (3) Each taxing subdivision shall, in preparing its annual or  
8 biennial budget, take into account the amounts to be received under this  
9 section.

10 (4) No reimbursements shall be made pursuant to this section for tax  
11 years 2018 and 2019.

12 Sec. 6. Section 77-1248, Revised Statutes Cumulative Supplement,  
13 2016, is amended to read:

14 77-1248 (1) The Property Tax Administrator shall ascertain from the  
15 reports made and from any other information obtained by him or her the  
16 taxable value of the flight equipment of air carriers and the proportion  
17 allocated to this state for the purposes of taxation as provided in  
18 section 77-1245.

19 (2)(a) In determining the taxable value of the flight equipment of  
20 air carriers pursuant to subsection (1) of this section, the Property Tax  
21 Administrator shall determine the following ratios:

22 (i) The ratio of the taxable value of all commercial and industrial  
23 depreciable tangible personal property in the state actually subjected to  
24 property tax to the market value of all commercial and industrial  
25 depreciable tangible personal property in the state; and

26 (ii) The ratio of the taxable value of flight equipment of air  
27 carriers to the market value of flight equipment of air carriers.

28 (b) If the ratio of the taxable value of flight equipment of air  
29 carriers exceeds the ratio of the taxable value of commercial and  
30 industrial depreciable tangible personal property by more than five  
31 percent, the Property Tax Administrator may adjust the value of such

1 flight equipment of air carriers to the percentage of the taxable  
2 commercial and industrial depreciable tangible personal property pursuant  
3 to federal law applicable to air carrier transportation property or  
4 Nebraska federal court decisions applicable thereto.

5 (c) For purposes of this subsection, commercial and industrial  
6 depreciable tangible personal property means all personal property which  
7 is devoted to commercial or industrial use other than flight equipment of  
8 air carriers.

9 (3) For each tax year excluding tax years 2018 and 2019, the The  
10 Property Tax Administrator shall multiply the valuation of each air  
11 carrier by the compensating exemption factor calculated in section  
12 77-1238.

13 Sec. 7. Section 77-3604, Revised Statutes Cumulative Supplement,  
14 2016, is amended to read:

15 77-3604 (1) A child care and education provider whose eligible  
16 program provides services to children who participate in the child care  
17 subsidy program established pursuant to section 68-1202 may apply to the  
18 department to receive a nonrefundable tax credit against the income tax  
19 imposed by the Nebraska Revenue Act of 1967.

20 (2) The nonrefundable credit provided in this section shall be an  
21 amount equal to the average monthly number of children described in  
22 subsection (1) of this section who are attending the child care and  
23 education provider's eligible program, multiplied by an amount based upon  
24 the quality scale rating of such eligible program as follows:

25 Quality Scale Rating of Eligible Program	Tax Credit Per Child Attending
26	Eligible Program
27 Step Five	\$750
28 Step Four	\$500
29 Step Three	\$250
30 Step Two	\$0

1 Step One \$0

2 (3) A child care and education provider shall apply for the credit  
3 provided in this section by submitting an application to the department  
4 with the following information:

5 (a) The number of children described in subsection (1) of this  
6 section who attended the child care and education provider's eligible  
7 program during each month of the most recently completed taxable year;

8 (b) Documentation to show the quality scale rating of the child care  
9 and education provider's eligible program; and

10 (c) Any other documentation required by the department.

11 (4) Subject to subsection (5) of this section, if the department  
12 determines that the child care and education provider qualifies for tax  
13 credits under this section, it shall approve the application and certify  
14 the amount of credits approved to the child care and education provider.

15 (5) The department shall consider applications in the order in which  
16 they are received and may approve tax credits under this section in any  
17 taxable year until the aggregate limit allowed under subsection (1) of  
18 section 77-3606 has been reached.

19 (6) The credit provided in this section shall be available for  
20 taxable years beginning or deemed to begin on or after January 1, 2017,  
21 and before January 1, 2018, and for taxable years beginning or deemed to  
22 begin on or after January 1, 2020, and before January 1, 2022, under the  
23 Internal Revenue Code of 1986, as amended.

24 Sec. 8. Section 77-3605, Revised Statutes Cumulative Supplement,  
25 2016, is amended to read:

26 77-3605 (1) An eligible staff member may apply to the department to  
27 receive a refundable tax credit against the income tax imposed by the  
28 Nebraska Revenue Act of 1967. The amount of the credit shall be based on  
29 the eligible staff member's classification under subsection (4) of  
30 section 71-1962 as follows:

	Eligible Staff Member's Classification	Tax Credit
1		
2	Level Four	\$1,500
3	Level Three	\$1,250
4	Level Two	\$750
5	Level One	\$500

6 (2) An eligible staff member shall apply for the credit provided in  
7 this section by submitting an application to the department with the  
8 following information:

9 (a) The eligible staff member's name and place of employment;

10 (b) An attestation form provided by the Nebraska Early Childhood  
11 Professional Record System verifying the level at which the eligible  
12 staff member is classified under subsection (4) of section 71-1962; and

13 (c) Any other documentation required by the department.

14 (3) Subject to subsection (4) of this section, if the department  
15 determines that the eligible staff member qualifies for tax credits under  
16 this section, it shall approve the application and certify the amount of  
17 credits approved to the eligible staff member.

18 (4) The department shall consider applications in the order in which  
19 they are received and may approve tax credits under this section in any  
20 taxable year until the aggregate limit allowed under subsection (1) of  
21 section 77-3606 has been reached.

22 (5) The credit provided in this section shall be available for  
23 taxable years beginning or deemed to begin on or after January 1, 2017,  
24 and before January 1, 2018, and for taxable years beginning or deemed to  
25 begin on or after January 1, 2020, and before January 1, 2022, under the  
26 Internal Revenue Code of 1986, as amended.

27 (6) For taxable years beginning or deemed to begin on or after  
28 January 1, 2020 ~~2018~~, and before January 1, 2022, under the Internal  
29 Revenue Code of 1986, as amended, the Tax Commissioner shall adjust the  
30 credit amounts provided for in subsection (1) of this section by the

1 percentage change in the Consumer Price Index for All Urban Consumers, as  
2 prepared by the United States Department of Labor, Bureau of Labor  
3 Statistics, for the twelve-month period ending on August 31 of the year  
4 preceding the taxable year.

5 Sec. 9. Section 77-6306, Revised Statutes Cumulative Supplement,  
6 2016, is amended to read:

7 77-6306 (1) For taxable years beginning or deemed to begin on or  
8 after January 1, 2011, and before January 1, 2018, and for taxable years  
9 beginning or deemed to begin on or after January 1, 2020, under the  
10 Internal Revenue Code of 1986, as amended, a qualified investor or  
11 qualified fund is eligible for a refundable tax credit equal to thirty-  
12 five percent of its qualified investment in a qualified small business,  
13 except that if the qualified small business is located in a distressed  
14 area the qualified investor or qualified fund is eligible for a  
15 refundable tax credit equal to forty percent of its qualified investment  
16 in the qualified small business. The director shall not allocate more  
17 than four million dollars in tax credits to all qualified investors or  
18 qualified funds in a calendar year. If the director does not allocate the  
19 entire four million dollars of tax credits in a calendar year, the tax  
20 credits that are not allocated shall not carry forward to subsequent  
21 years. The director shall not allocate any amount for tax credits for  
22 calendar years 2018 and 2019 or for calendar years after 2022.

23 (2) The director shall not allocate more than a total maximum amount  
24 in tax credits for a calendar year to a qualified investor for the  
25 investor's cumulative qualified investments as an individual qualified  
26 investor and as an investor in a qualified fund as provided in this  
27 subsection. For married couples filing joint returns the maximum is three  
28 hundred fifty thousand dollars, and for all other filers the maximum is  
29 three hundred thousand dollars. The director shall not allocate more than  
30 a total of one million dollars in tax credits for qualified investments  
31 in any one qualified small business.

1           (3) The director shall not allocate a tax credit to a qualified  
2 investor either as an individual qualified investor or as an investor in  
3 a qualified fund if the investor receives more than forty-nine percent of  
4 the investor's gross annual income from the qualified small business in  
5 which the qualified investment is proposed. A family member of an  
6 individual disqualified by this subsection is not eligible for a tax  
7 credit under this section. For a married couple filing a joint return,  
8 the limitations in this subsection apply collectively to the investor and  
9 spouse. For purposes of determining the ownership interest of an investor  
10 under this subsection, the rules under section 267(c) and (e) of the  
11 Internal Revenue Code of 1986, as amended, apply.

12           (4) Tax credits shall be allocated to qualified investors or  
13 qualified funds in the order that the tax credit applications are filed  
14 with the director. Once tax credits have been approved and allocated by  
15 the director, the qualified investors and qualified funds shall implement  
16 the qualified investment specified within ninety days after allocation of  
17 the tax credits. Qualified investors and qualified funds shall notify the  
18 director no later than thirty days after the expiration of the ninety-day  
19 period that the qualified investment has been made. If the qualified  
20 investment is not made within ninety days after allocation of the tax  
21 credits, or the director has not, within thirty days following expiration  
22 of the ninety-day period, received notification that the qualified  
23 investment was made, the tax credit allocation is canceled and available  
24 for reallocation. A qualified investor or qualified fund that fails to  
25 invest as specified in the application within ninety days after  
26 allocation of the tax credits shall notify the director of the failure to  
27 invest within five business days after the expiration of the ninety-day  
28 investment period.

29           (5) All tax credit applications filed with the director on the same  
30 day shall be treated as having been filed contemporaneously. If two or  
31 more qualified investors or qualified funds file tax credit applications



1 on the same day and the aggregate amount of tax credit allocation  
2 requests exceeds the aggregate limit of tax credits under this section or  
3 the lesser amount of tax credits that remain unallocated on that day,  
4 then the tax credits shall be allocated among the qualified investors or  
5 qualified funds who filed on that day on a pro rata basis with respect to  
6 the amounts requested. The pro rata allocation for any one qualified  
7 investor or qualified fund shall be the product obtained by multiplying a  
8 fraction, the numerator of which is the amount of the tax credit  
9 allocation request filed on behalf of a qualified investor or qualified  
10 fund and the denominator of which is the total of all tax credit  
11 allocation requests filed on behalf of all applicants on that day, by the  
12 amount of tax credits that remain unallocated on that day for the taxable  
13 year.

14 (6) A qualified investor or qualified fund, or a qualified small  
15 business acting on behalf of the investor or fund, shall notify the  
16 director when an investment for which tax credits were allocated has been  
17 made and shall furnish the director with documentation of the investment  
18 date. A qualified fund shall also provide the director with a statement  
19 indicating the amount invested by each investor in the qualified fund  
20 based on each investor's share of the assets of the qualified fund at the  
21 time of the qualified investment. After receiving notification that the  
22 qualified investment was made, the director shall issue tax credit  
23 certificates for the taxable year in which the qualified investment was  
24 made to the qualified investor or, for a qualified investment made by a  
25 qualified fund, to each qualified investor who is an investor in the  
26 fund. The certificate shall state that the tax credit is subject to  
27 revocation if the qualified investor or qualified fund does not hold the  
28 investment in the qualified small business for at least three years,  
29 consisting of the calendar year in which the investment was made and the  
30 two following calendar years. The three-year holding period does not  
31 apply if:

1 (a) The qualified investment by the qualified investor or qualified  
2 fund becomes worthless before the end of the three-year period;

3 (b) Eighty percent or more of the assets of the qualified small  
4 business are sold before the end of the three-year period;

5 (c) The qualified small business is sold or merges with another  
6 business before the end of the three-year period;

7 (d) The qualified small business's common stock begins trading on a  
8 public exchange before the end of the three-year period; or

9 (e) In the case of an individual qualified investor, such investor  
10 becomes deceased before the end of the three-year period.

11 (7) The director shall notify the Tax Commissioner that tax credit  
12 certificates have been issued, including the amount of tax credits and  
13 all other pertinent tax information.

14 Sec. 10. Original sections 77-202, 77-693, 77-801, 77-1238, 77-1239,  
15 77-1248, 77-3604, 77-3605, and 77-6306, Revised Statutes Cumulative  
16 Supplement, 2016, are repealed.