

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 605

Introduced by Lindstrom, 18.

Read first time January 23, 2019

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2715.07, 77-2717, and 77-2734.03, Reissue Revised Statutes of
- 3 Nebraska; to adopt the Renewable Chemical Production Tax Credit Act;
- 4 to harmonize provisions; and to repeal the original sections.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 11 of this act shall be known and may be
2 cited as the Renewable Chemical Production Tax Credit Act.

3 Sec. 2. The Legislature finds and declares that Nebraska is home to
4 an emerging biotechnology and bioproducts sector that yields important
5 innovations and collaborative opportunities with the existing
6 agricultural sector. The Legislature further finds that advances in
7 biotechnology and bioproducts will play a critical role in addressing
8 global challenges, reducing our environmental footprint, and creating
9 sustainable materials including renewable chemicals made from Nebraska-
10 based agricultural products.

11 Sec. 3. For purposes of the Renewable Chemical Production Tax
12 Credit Act, unless the context otherwise requires:

13 (1) Biomass feedstock means sugar, starch, polysaccharide, glycerin,
14 lignin, fat, grease, or oil derived from plants, animals, or algae or a
15 protein capable of being converted to a building block chemical by means
16 of a biological or chemical conversion process;

17 (2) Building block chemical means a molecule that is converted from
18 biomass feedstock as a first product or a secondarily derived product
19 that can be further refined into a higher-value chemical, material, or
20 consumer product;

21 (3) Director means the Director of Economic Development;

22 (4) Eligible business means a business that has been certified by
23 the director under section 4 of this act;

24 (5) Food additive means a building block chemical that is not
25 primarily consumed as food but which, when combined with other
26 components, improves the taste, appearance, odor, texture, shelf life, or
27 nutritional content of food. The director, in his or her discretion,
28 shall determine whether or not a biobased chemical is primarily consumed
29 as food;

30 (6) Pre-eligibility production threshold means, with respect to each
31 eligible business, the number of pounds of renewable chemicals produced,

1 if any, by an eligible business during the calendar year prior to the
2 calendar year in which the business first qualified as an eligible
3 business pursuant to section 4 of this act; and

4 (7)(a) Renewable chemical means a building block chemical with a
5 significant biobased content that can be used for products including
6 polymers, plastics, food additives, solvents, intermediate chemicals, or
7 other formulated products with a significant nonfossil carbon content.

8 (b) Renewable chemical includes:

9 (i) Biobased chemicals that can be a food, feed, or fuel additive;
10 and

11 (ii) Supplements, vitamins, nutraceuticals, and pharmaceuticals.

12 (c) The director may include additional chemicals or materials in
13 the definition of renewable chemical by rule and regulation after
14 consulting with appropriate experts from the University of Nebraska,
15 including, but not limited to, the Industrial Agricultural Products
16 Center.

17 (d) Renewable chemical does not include a chemical sold or used as
18 fuel.

19 Sec. 4. (1) A business may apply to the director for certification
20 as an eligible business. The program certification application shall be
21 in the form and be made under the procedures specified by the director.

22 (2) Within thirty days after receiving a program certification
23 application for certification under this section, the director shall
24 certify the business as satisfying the conditions required of an eligible
25 business, request additional information, or deny the program
26 certification application. If the director requests additional
27 information, the director shall certify the business or deny the program
28 certification application within thirty days after receiving the
29 additional information. If the director neither certifies the business
30 nor denies the program certification application within thirty days after
31 receiving the original program certification application or within thirty

1 days after receiving the additional information requested, whichever is
2 later, then the program certification application is deemed approved if
3 the business meets the requirements in subsection (3) of this section. A
4 business that applies for program certification and is denied may
5 reapply.

6 (3) To be certified as an eligible business under the Renewable
7 Chemical Production Tax Credit Act, a business shall meet all of the
8 following requirements:

9 (a) The business produced at least one million pounds of renewable
10 chemicals in this state during the calendar year for which tax credits
11 are sought;

12 (b) The business is physically located in this state;

13 (c) The business organized, expanded, or located in this state on or
14 after the effective date of this act; and

15 (d) The business is in compliance with all agreements entered into
16 under the act and pursuant to any other tax credits or programs
17 administered by the Department of Economic Development or the Department
18 of Revenue.

19 (4)(a) An eligible business shall enter into an agreement with the
20 director for the successful completion of all requirements of the act.
21 The agreement may certify the business to receive tax credits under the
22 act for up to four years.

23 (b) As part of the agreement, the eligible business shall agree to
24 collect and provide any information reasonably required by the director
25 or the Department of Revenue in order to allow the director and
26 department to fulfill their reporting obligations under section 10 of
27 this act.

28 Sec. 5. The director shall consider program certification
29 applications under section 4 of this act in the order in which they are
30 received. The director may accept program certification applications on a
31 continuous basis or may establish, by rule and regulation, an annual

1 program certification application deadline. The director may approve
2 program certification applications for eligible businesses for a total of
3 up to three million dollars in tax credits for calendar years 2021 and
4 2022 and up to six million dollars per calendar year for calendar years
5 2023 and beyond. Program certification applications approved after such
6 annual limit has been reached shall be placed on a wait list in the order
7 in which they are received.

8 Sec. 6. (1) An eligible business may apply to the Department of
9 Revenue for tax credits under the Renewable Chemical Production Tax
10 Credit Act.

11 (2) To receive tax credits, the eligible business shall submit a tax
12 credit application to the Department of Revenue on a form prescribed by
13 the department. The tax credit application shall be made during the
14 calendar year following the calendar year in which the eligible business
15 produced the renewable chemicals for which it seeks tax credits. The tax
16 credit application shall include the following information:

17 (a) The number of pounds of renewable chemicals produced in the
18 state by the eligible business during the calendar year for which tax
19 credits are sought; and

20 (b) Any other information reasonably required by the department in
21 order to establish and verify the amount of credits earned under the act.

22 (3) An eligible business shall fulfill all the requirements of the
23 act and its agreement with the director under section 4 of this act
24 before receiving tax credits under the act or entering into a subsequent
25 agreement. If an agreement is not successfully fulfilled, the director
26 may decline to enter into a subsequent agreement and the Department of
27 Revenue may decline to issue a tax credit.

28 (4) If the department determines that a tax credit application is
29 complete, that an eligible business qualifies for tax credits, and that
30 the eligible business has fulfilled all requirements of its agreement
31 with the director, the department shall approve the tax credit

1 application within the limits set forth in sections 5 and 7 of this act
2 and shall certify the amount of tax credits approved to the eligible
3 business.

4 Sec. 7. (1) The tax credit under the Renewable Chemical Production
5 Tax Credit Act shall be in an amount equal to the product of seven and
6 one-half cents multiplied by the number of pounds of renewable chemicals
7 produced in this state by the eligible business during each calendar year
8 in excess of the eligible business's pre-eligibility production
9 threshold. The maximum amount of tax credits that may be issued to an
10 eligible business under a single tax credit application shall not exceed
11 one million five hundred thousand dollars per year.

12 (2) The tax credit shall be a refundable credit that may be used
13 against any income tax imposed by the Nebraska Revenue Act of 1967. Any
14 credit in excess of the eligible business' tax liability shall be
15 refunded to the taxpayer.

16 (3) An eligible business shall not receive a tax credit for
17 renewable chemicals produced before the date the business first qualified
18 as an eligible business.

19 (4) The tax credit shall not be available for any renewable
20 chemicals produced before the 2021 calendar year.

21 (5) Any tax credit allowable to a partnership, a limited liability
22 company, a subchapter S corporation, or an estate or trust may be
23 distributed to the partners, limited liability company members,
24 shareholders, or beneficiaries in the same manner as income is
25 distributed.

26 (6) An eligible business shall claim the tax credit by attaching the
27 tax credit certification received from the department under section 6 of
28 this act to the business' tax return for the tax year in which the credit
29 was approved.

30 Sec. 8. The failure by an eligible business in fulfilling any
31 requirement of the Renewable Chemical Production Tax Credit Act or any of

1 the terms and obligations of an agreement entered into pursuant to
2 section 4 of this act may result in the reduction, termination, or
3 rescission of the tax credits under the act and may subject the eligible
4 business to the repayment or recapture of tax credits claimed.

5 Sec. 9. Except for the identity of a recipient of tax credits under
6 the Renewable Chemical Production Tax Credit Act and the amount of such
7 credits, any information or record in the possession of the Department of
8 Economic Development or Department of Revenue with respect to the act
9 shall be presumed by such departments to be a trade secret and shall be
10 kept confidential by such departments unless otherwise ordered by a
11 court.

12 Sec. 10. (1) On or before January 31, 2022, and on or before each
13 January 31 thereafter, the director and the Department of Revenue shall
14 electronically submit a report on the Renewable Chemical Production Tax
15 Credit Act to the Revenue Committee of the Legislature. At a minimum, the
16 report shall include the following information regarding tax credits and
17 the recipients of such credits:

18 (a) The aggregate number of pounds, and a list of each type, of
19 renewable chemicals produced in Nebraska by all recipients (i) during the
20 calendar year prior to the calendar year for which each recipient first
21 received tax credits and (ii) for each calendar year thereafter;

22 (b) The aggregate sales of all renewable chemicals produced by all
23 recipients in each calendar year for which there are at least five
24 recipients;

25 (c) The aggregate number of pounds, and a list of each type, of
26 biomass feedstock used in the production of renewable chemicals in
27 Nebraska by all recipients (i) during the calendar year prior to the
28 calendar year for which each recipient first received tax credits and
29 (ii) for each calendar year thereafter;

30 (d) The number of employees located in Nebraska of all recipients
31 (i) during the calendar year prior to the calendar year for which each

1 recipient first received tax credits and (ii) for each calendar year
2 thereafter;

3 (e) The number and aggregate amount of tax credits issued for each
4 calendar year;

5 (f) The number of eligible businesses placed on the wait list for
6 each calendar year and the total number of eligible businesses remaining
7 on the wait list at the end of that calendar year;

8 (g) The dollar amount of tax credit claims placed on the wait list
9 for each calendar year and the total dollar amount of tax credit claims
10 remaining on the wait list at the end of that calendar year;

11 (h) For each eligible business which received tax credits during
12 each calendar year: (i) The identity of the eligible business; (ii) the
13 amount of the tax credits; and (iii) the manner in which the eligible
14 business first qualified as an eligible business, whether by organizing,
15 expanding, or locating in the state; and

16 (i) The total amount of all tax credits claimed during each calendar
17 year, and the portion issued as refunds.

18 (2) In order to protect the presumption of confidentiality provided
19 for in section 9 of this act, the director and Department of Revenue
20 shall report all information in an aggregate form to prevent, to the
21 extent reasonably possible, information being attributable to any
22 particular eligible business, except as provided in subdivision (1)(h) of
23 this section.

24 Sec. 11. The Department of Economic Development and Department of
25 Revenue may adopt and promulgate rules and regulations necessary to carry
26 out the Renewable Chemical Production Tax Credit Act.

27 Sec. 12. Section 77-2715.07, Reissue Revised Statutes of Nebraska,
28 is amended to read:

29 77-2715.07 (1) There shall be allowed to qualified resident
30 individuals as a nonrefundable credit against the income tax imposed by
31 the Nebraska Revenue Act of 1967:

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

3 (b) A credit for taxes paid to another state as provided in section
4 77-2730.

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

7 (a) For returns filed reporting federal adjusted gross incomes of
8 greater than twenty-nine thousand dollars, a nonrefundable credit equal
9 to twenty-five percent of the federal credit allowed under section 21 of
10 the Internal Revenue Code of 1986, as amended, except that for taxable
11 years beginning or deemed to begin on or after January 1, 2015, such
12 nonrefundable credit shall be allowed only if the individual would have
13 received the federal credit allowed under section 21 of the code after
14 adding back in any carryforward of a net operating loss that was deducted
15 pursuant to such section in determining eligibility for the federal
16 credit;

17 (b) For returns filed reporting federal adjusted gross income of
18 twenty-nine thousand dollars or less, a refundable credit equal to a
19 percentage of the federal credit allowable under section 21 of the
20 Internal Revenue Code of 1986, as amended, whether or not the federal
21 credit was limited by the federal tax liability. The percentage of the
22 federal credit shall be one hundred percent for incomes not greater than
23 twenty-two thousand dollars, and the percentage shall be reduced by ten
24 percent for each one thousand dollars, or fraction thereof, by which the
25 reported federal adjusted gross income exceeds twenty-two thousand
26 dollars, except that for taxable years beginning or deemed to begin on or
27 after January 1, 2015, such refundable credit shall be allowed only if
28 the individual would have received the federal credit allowed under
29 section 21 of the code after adding back in any carryforward of a net
30 operating loss that was deducted pursuant to such section in determining
31 eligibility for the federal credit;

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

6 (d) A refundable credit for individuals who qualify for an income
7 tax credit under the Angel Investment Tax Credit Act, the Nebraska
8 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
9 and Development Act, or the Volunteer Emergency Responders Incentive Act;
10 and

11 (e) A refundable credit equal to ten percent of the federal credit
12 allowed under section 32 of the Internal Revenue Code of 1986, as
13 amended, except that for taxable years beginning or deemed to begin on or
14 after January 1, 2015, such refundable credit shall be allowed only if
15 the individual would have received the federal credit allowed under
16 section 32 of the code after adding back in any carryforward of a net
17 operating loss that was deducted pursuant to such section in determining
18 eligibility for the federal credit.

19 (3) There shall be allowed to all individuals as a nonrefundable
20 credit against the income tax imposed by the Nebraska Revenue Act of
21 1967:

22 (a) A credit for personal exemptions allowed under section
23 77-2716.01;

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

31 (c) A credit for investment in a biodiesel facility as provided in

1 section 77-27,236;

2 (d) A credit as provided in the New Markets Job Growth Investment
3 Act;

4 (e) A credit as provided in the Nebraska Job Creation and Mainstreet
5 Revitalization Act;

6 (f) A credit to employers as provided in section 77-27,238; and

7 (g) A credit as provided in the Affordable Housing Tax Credit Act.

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

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

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

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

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

1 partner's, shareholder's, member's, or beneficiary's portion of the
2 amount of franchise tax paid to the state under sections 77-3801 to
3 77-3807 by a financial institution.

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

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

18 (6) There shall be allowed to all individuals nonrefundable credits
19 against the income tax imposed by the Nebraska Revenue Act of 1967 as
20 provided in section 77-3604 and refundable credits against the income tax
21 imposed by the Nebraska Revenue Act of 1967 as provided in section
22 77-3605.

23 (7) There shall be allowed to all individuals refundable credits
24 against the income tax imposed by the Nebraska Revenue Act of 1967 as
25 provided in the Renewable Chemical Production Tax Credit Act.

26 Sec. 13. Section 77-2717, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
29 before January 1, 2014, the tax imposed on all resident estates and
30 trusts shall be a percentage of the federal taxable income of such
31 estates and trusts as modified in section 77-2716, plus a percentage of

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

18 (ii) For taxable years beginning or deemed to begin on or after
19 January 1, 2014, the tax imposed on all resident estates and trusts shall
20 be a percentage of the federal taxable income of such estates and trusts
21 as modified in section 77-2716, plus a percentage of the federal tax on
22 premature or lump-sum distributions from qualified retirement plans. The
23 additional taxes shall be recomputed by substituting Nebraska taxable
24 income for federal taxable income and applying Nebraska rates to the
25 result. The credits provided in the Nebraska Advantage Microenterprise
26 Tax Credit Act and the Nebraska Advantage Research and Development Act
27 shall be allowed as a reduction in the income tax due. A refundable
28 income tax credit shall be allowed for all resident estates and trusts
29 under the Angel Investment Tax Credit Act, the Nebraska Advantage
30 Microenterprise Tax Credit Act, ~~and~~ the Nebraska Advantage Research and
31 Development Act, and the Renewable Chemical Production Tax Credit Act. A

1 nonrefundable income tax credit shall be allowed for all resident estates
2 and trusts as provided in the Nebraska Job Creation and Mainstreet
3 Revitalization Act, the New Markets Job Growth Investment Act, the School
4 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and
5 section 77-27,238.

6 (b) The tax imposed on all nonresident estates and trusts shall be
7 the portion of the tax imposed on resident estates and trusts which is
8 attributable to the income derived from sources within this state. The
9 tax which is attributable to income derived from sources within this
10 state shall be determined by multiplying the liability to this state for
11 a resident estate or trust with the same total income by a fraction, the
12 numerator of which is the nonresident estate's or trust's Nebraska income
13 as determined by sections 77-2724 and 77-2725 and the denominator of
14 which is its total federal income after first adjusting each by the
15 amounts provided in section 77-2716. The federal credit for prior year
16 minimum tax, after the recomputations required by the Nebraska Revenue
17 Act of 1967, reduced by the percentage of the total income which is
18 attributable to income from sources outside this state, and the credits
19 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
20 Nebraska Advantage Research and Development Act shall be allowed as a
21 reduction in the income tax due. A refundable income tax credit shall be
22 allowed for all nonresident estates and trusts under the Angel Investment
23 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
24 ~~and~~ the Nebraska Advantage Research and Development Act, and the
25 Renewable Chemical Production Tax Credit Act. A nonrefundable income tax
26 credit shall be allowed for all nonresident estates and trusts as
27 provided in the Nebraska Job Creation and Mainstreet Revitalization Act,
28 the New Markets Job Growth Investment Act, the School Readiness Tax
29 Credit Act, the Affordable Housing Tax Credit Act, and section 77-27,238.

30 (2) In all instances wherein a fiduciary income tax return is
31 required under the provisions of the Internal Revenue Code, a Nebraska

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

11 (3) The beneficiaries of such estate or trust who are residents of
12 this state shall include in their income their proportionate share of
13 such estate's or trust's federal income and shall reduce their Nebraska
14 tax liability by their proportionate share of the credits as provided in
15 the Angel Investment Tax Credit Act, the Nebraska Advantage
16 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
17 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
18 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
19 Credit Act, the Affordable Housing Tax Credit Act, the Renewable Chemical
20 Production Tax Credit Act, and section 77-27,238. There shall be allowed
21 to a beneficiary a refundable income tax credit under the Beginning
22 Farmer Tax Credit Act for all taxable years beginning or deemed to begin
23 on or after January 1, 2001, under the Internal Revenue Code of 1986, as
24 amended.

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

1 as provided in the Angel Investment Tax Credit Act, the Nebraska
2 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
3 and Development Act, the Nebraska Job Creation and Mainstreet
4 Revitalization Act, the New Markets Job Growth Investment Act, the School
5 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
6 Renewable Chemical Production Tax Credit Act, and section 77-27,238 and
7 shall execute and forward to the fiduciary, on or before the original due
8 date of the Nebraska fiduciary return, an agreement which states that he
9 or she will file a Nebraska income tax return and pay income tax on all
10 income derived from or connected with sources in this state, and such
11 agreement shall be attached to the Nebraska fiduciary return for such
12 taxable year.

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

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

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

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

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

18 Sec. 14. Section 77-2734.03, Reissue Revised Statutes of Nebraska,
19 is amended to read:

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

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

1 the amount paid during the taxable year as (i) taxes on such premiums and
2 assessments included as Nebraska premiums and assessments under section
3 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

22 (5) There shall be allowed to corporate taxpayers refundable income
23 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act,
24 ~~and~~ the Nebraska Advantage Research and Development Act, and the
25 Renewable Chemical Production Tax Credit Act.

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

29 (7) There shall be allowed to corporate taxpayers a nonrefundable
30 income tax credit as provided in the Nebraska Job Creation and Mainstreet
31 Revitalization Act, the New Markets Job Growth Investment Act, the School

1 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, and
2 section 77-27,238.

3 Sec. 15. Original sections 77-2715.07, 77-2717, and 77-2734.03,
4 Reissue Revised Statutes of Nebraska, are repealed.