

E AND R AMENDMENTS TO LB 343

Introduced by Enrollment and Review Committee: McGill, 26,
Chairperson

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

3 Section 1. Section 77-2701, Revised Statutes Cumulative
4 Supplement, 2006, is amended to read:

5 77-2701 Sections 77-2701 to 77-27,135.01, 77-27,222, and
6 77-27,228 to 77-27,235 and section 2 of this act shall be known and
7 may be cited as the Nebraska Revenue Act of 1967.

8 Sec. 2. (1) A taxpayer who makes an investment prior
9 to January 1, 2015, in a biodiesel facility shall receive a
10 nonrefundable income tax credit as provided in this section.

11 (2) The credit provided in subsection (1) of this section
12 is thirty percent of the amount invested by the taxpayer in
13 a biodiesel facility during the first taxable year in which
14 the biodiesel facility produces B100 subject to the following
15 conditions:

16 (a) A taxpayer may claim no more than fifty percent
17 of the credit attributable to qualified investments in a single
18 taxable year, and the amount of the credit allowed under this
19 section for any taxable year may not exceed fifty percent of the
20 taxpayer's tax liability;

21 (b) Any amount of credit not allowed because of the
22 limitations in this section may be carried forward for up
23 to fifteen taxable years after the taxable year in which the

1 investment was made. The aggregate maximum income tax credit a
2 taxpayer may obtain is two hundred fifty thousand dollars;

3 (c) The investment shall be at risk in the biodiesel
4 facility. The investment shall be in the form of a purchase of an
5 ownership interest or the right to receive payment of dividends
6 from the biodiesel facility and shall remain in the business for at
7 least three years. The Tax Commissioner may recapture any credits
8 used if the investment does not remain invested for the three-year
9 period. An investment placed in escrow does not qualify under this
10 subdivision;

11 (d) The entire amount of the investment shall be expended
12 by the biodiesel facility for plant, equipment, research and
13 development, marketing and sales activity, or working capital;

14 (e) A partnership, a subchapter S corporation, a limited
15 liability company that for tax purposes is treated like a
16 partnership, a cooperative, including a cooperative exempt under
17 section 521 of the Internal Revenue Code of 1986, as amended,
18 or any other pass-through entity that invests in a biodiesel
19 facility shall be considered to be the taxpayer for purposes
20 of the credit limitations. Except for the limitation under
21 subdivision (2)(a) of this section, the amount of the credit
22 allowed to a pass-through entity shall be determined at the
23 partnership, corporate, cooperative, or other organizational level.
24 The amount of the credit determined at the partnership, corporate,
25 cooperative, or other organizational level shall be allowed to
26 the partners, members, or other owners in proportion to their
27 respective ownership interests in the pass-through entity;

1 (f) The credit shall be given only if the biodiesel
2 facility produces B100, all processing takes place at a biodiesel
3 facility in Nebraska, and at least fifty-one percent of the
4 ownership interest of the biodiesel facility is held by Nebraska
5 individuals or entities; and

6 (g) The biodiesel facility shall provide the Department
7 of Revenue written evidence substantiating that the biodiesel
8 facility has received the requisite authority from the Department
9 of Environmental Quality and from the United States Department
10 of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives.
11 The biodiesel facility shall annually provide an analysis to the
12 Department of Revenue of samples of the product collected according
13 to procedures specified by the department. The analysis shall be
14 prepared by an independent laboratory meeting standards of the
15 International Organization for Standardization. Prior to collecting
16 the samples, the biodiesel facility shall notify the department
17 which may observe the sampling procedures utilized by the biodiesel
18 facility to obtain the samples to be submitted for independent
19 analysis.

20 (3) Any biodiesel facility for which credits are granted
21 shall, whenever possible, employ workers who are residents of the
22 State of Nebraska.

23 (4) Trade secrets, academic and scientific research work,
24 and other proprietary or commercial information which may be
25 filed with the Tax Commissioner shall not be considered to be
26 public records as defined in section 84-712.01 if the release
27 of such trade secrets, work, or information would give advantage

1 to business competitors and serve no public purpose. Any person
2 seeking release of the trade secrets, work, or information as
3 a public record shall demonstrate to the satisfaction of the
4 department that the release would not violate this section.

5 (5) For purposes of this section:

6 (a) Biodiesel facility means a plant or facility related
7 to the processing, marketing, or distribution of biodiesel; and

8 (b) B100 means pure biodiesel containing mono-alkyl
9 esters of long chain fatty acids derived from vegetable oils
10 or animal fats, designated as B100, and meeting the American
11 Society for Testing and Materials standard, ASTM D6751.

12 Sec. 3. Section 77-2715.07, Revised Statutes Cumulative
13 Supplement, 2006, is amended to read:

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

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

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

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

24 (a) For returns filed reporting federal adjusted
25 gross incomes of greater than twenty-nine thousand dollars, a
26 nonrefundable credit equal to twenty-five percent of the federal
27 credit allowed under section 21 of the Internal Revenue Code of

1 1986, as amended;

2 (b) For returns filed reporting federal adjusted gross
3 income of twenty-nine thousand dollars or less, a refundable credit
4 equal to a percentage of the federal credit allowable under section
5 21 of the Internal Revenue Code of 1986, as amended, whether or
6 not the federal credit was limited by the federal tax liability.
7 The percentage of the federal credit shall be one hundred percent
8 for incomes not greater than twenty-two thousand dollars, and
9 the percentage shall be reduced by ten percent for each one
10 thousand dollars, or fraction thereof, by which the reported
11 federal adjusted gross income exceeds twenty-two thousand dollars;

12 (c) A refundable credit for individuals who qualify for
13 an income tax credit as an owner of agricultural assets under the
14 Beginning Farmer Tax Credit Act for all taxable years beginning or
15 deemed to begin on or after January 1, 2001, under the Internal
16 Revenue Code of 1986, as amended; and a refundable credit as
17 provided in section 77-5209.01 for individuals who qualify for an
18 income tax credit as a qualified beginning farmer or livestock
19 producer under the Beginning Farmer Tax Credit Act for all taxable
20 years beginning or deemed to begin on or after January 1, 2006,
21 under the Internal Revenue Code of 1986, as amended;

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

26 (e) A refundable credit equal to eight percent of the
27 federal credit allowed under section 32 of the Internal Revenue

1 Code of 1986, as amended.

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

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

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

15 (c) A credit for investment in a biodiesel facility as
16 provided in section 2 of this act.

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

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

21 (b) A credit to all estates and trusts for contributions
22 to certified community betterment programs as provided in the
23 Community Development Assistance Act.

24 (5) There shall be allowed to all business firms as a
25 credit against the income tax imposed by the Nebraska Revenue Act
26 of 1967 a credit as provided in section 77-27,222.

27 Sec. 4. Section 77-2734.03, Revised Statutes Cumulative

1 Supplement, 2006, is amended to read:

2 77-2734.03 (1) (a) For taxable years commencing prior to
3 January 1, 1997, any (i) insurer paying a tax on premiums and
4 assessments pursuant to section 77-908 or 81-523, (ii) electric
5 cooperative organized under the Joint Public Power Authority Act,
6 or (iii) credit union shall be credited, in the computation of
7 the tax due under the Nebraska Revenue Act of 1967, with the
8 amount paid during the taxable year as taxes on such premiums and
9 assessments and taxes in lieu of intangible tax.

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

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

26 (2) There shall be allowed to corporate taxpayers a
27 tax credit for contributions to community betterment programs as

1 provided in the Community Development Assistance Act.

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

7 (4) There shall be allowed to corporate taxpayers a tax
8 credit as provided in section 77-27,222.

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

13 (6) There shall be allowed to corporate taxpayers
14 refundable income tax credits under the Nebraska Advantage
15 Microenterprise Tax Credit Act and the Nebraska Advantage Research
16 and Development Act.

17 (7) There shall be allowed to corporate taxpayers a
18 nonrefundable income tax credit for investment in a biodiesel
19 facility as provided in section 2 of this act.

20 Sec. 5. This act becomes operative for taxable years
21 beginning or deemed to begin on or after January 1, 2007, under the
22 Internal Revenue Code of 1986, as amended.

23 Sec. 6. Original sections 77-2701, 77-2715.07, and
24 77-2734.03, Revised Statutes Cumulative Supplement, 2006, are
25 repealed.