

AMENDMENTS TO LB 970

Introduced by Revenue

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

3           Section 1. Section 77-2701, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to  
6 77-27,236 and section 5 of this act shall be known and may be cited  
7 as the Nebraska Revenue Act of 1967.

8           Sec. 2. Section 77-2701.01, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           77-2701.01 Pursuant to section 77-2715.01, for all  
11 taxable years beginning or deemed to begin on or after January 1,  
12 1990, and before January 1, 1991, under the Internal Revenue Code  
13 of 1986, as amended, the rate of the income tax levied pursuant to  
14 section 77-2715 shall be three and forty-three-hundredths percent.  
15 Pursuant to section 77-2715.01, for all taxable years beginning or  
16 deemed to begin on or after January 1, 1991, and before January 1,  
17 2013, under the Internal Revenue Code of 1986, as amended, the rate  
18 of the income tax levied pursuant to section 77-2715 shall be three  
19 and seventy-hundredths percent. Pursuant to section 77-2715.01, for  
20 all taxable years beginning or deemed to begin on or after January  
21 1, 2013, under the Internal Revenue Code of 1986, as amended, the  
22 rates of the income tax levied pursuant to section 77-2715 shall be  
23 as provided in section 5 of this act.

1           Sec. 3. Section 77-2715.01, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-2715.01 (1)(a) Commencing in 1987 the Legislature  
4 shall set the ~~rate~~ rates for the income tax imposed by section  
5 77-2715 and the rate of the sales tax imposed by subsection (1)  
6 of section 77-2703. ~~The~~ For taxable years beginning or deemed to  
7 begin before January 1, 2013, the rate of the income tax set by the  
8 Legislature shall be considered the primary rate for establishing  
9 the tax rate schedules used to compute the tax.

10           (b) The Legislature shall set the rates of the sales tax  
11 and income tax so that the estimated funds available plus estimated  
12 receipts from the sales, use, income, and franchise taxes will be  
13 not less than three percent nor more than seven percent in excess  
14 of the appropriations and express obligations for the biennium for  
15 which the appropriations are made. The purpose of this subdivision  
16 is to insure that there shall be maintained in the state treasury  
17 an adequate General Fund balance, considering cash flow, to meet  
18 the appropriations and express obligations of the state.

19           (c) For purposes of this section, express obligation  
20 shall mean an obligation which has fiscal impact identifiable by a  
21 sum certain or by an established percentage or other determinative  
22 factor or factors.

23           (2) The Speaker of the Legislature and the chairpersons  
24 of the Legislature's Executive Board, Revenue Committee, and  
25 Appropriations Committee shall meet with the Tax Commissioner  
26 within ten days after July 15 and November 15 of each year  
27 and shall determine whether the rates for sales tax and income

1 tax should be changed. In making such determination they shall  
2 recalculate the requirements pursuant to the formula set forth  
3 in subsection (1) of this section, taking into consideration  
4 the appropriations and express obligations for any session,  
5 all miscellaneous claims, deficiency bills, and all emergency  
6 appropriations.

7 In the event it is determined by a majority vote that  
8 the rates must be changed as a result of a regular or special  
9 session or as a result of a change in the Internal Revenue Code  
10 of 1986 and amendments thereto, other provisions of the laws of  
11 the United States relating to federal income taxes, and the rules  
12 and regulations issued under such laws, they shall petition the  
13 Governor to call a special session of the Legislature to make  
14 whatever rate changes may be necessary.

15 Sec. 4. Section 77-2715.02, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17 77-2715.02 ~~(1)~~ Whenever the primary rate is changed by  
18 the Legislature under section 77-2715.01, the Tax Commissioner  
19 shall update the rate schedules required in subsection ~~(2)~~ of this  
20 section to reflect the new primary rate and shall publish such  
21 updated schedules.

22 ~~(2)~~ (1) The following rate schedules are hereby  
23 established for the Nebraska individual income tax and shall be in  
24 the following form:

25 (a) For taxable years beginning or deemed to begin before  
26 January 1, 2007, income amounts for columns A and E shall be:

27 (i) \$0, \$2,400, \$17,500, and \$27,000, for single returns;

1                   (ii) \$0, \$4,000, \$31,000, and \$50,000, for married filing  
2 joint returns;

3                   (iii) \$0, \$3,800, \$25,000, and \$35,000, for  
4 head-of-household returns;

5                   (iv) \$0, \$2,000, \$15,500, and \$25,000, for married filing  
6 separate returns; and

7                   (v) \$0, \$500, \$4,700, and \$15,150, for estates and  
8 trusts;

9                   (b) For taxable years beginning or deemed to begin on or  
10 after January 1, 2007, and before January 1, 2013, income amounts  
11 for columns A and E shall be:

12                   (i) \$0, \$2,400, \$17,500, and \$27,000, for single returns;

13                   (ii) \$0, \$4,800, \$35,000, and \$54,000, for married filing  
14 joint returns;

15                   (iii) \$0, \$4,500, \$28,000, and \$40,000, for  
16 head-of-household returns;

17                   (iv) \$0, \$2,400, \$17,500, and \$27,000, for married filing  
18 separate returns; and

19                   (v) \$0, \$500, \$4,700, and \$15,150, for estates and  
20 trusts;

21                   (c) The amount in column C shall be the total amount of  
22 the tax imposed on income less than the amount in column A;

23                   (d) The amount in column D shall be the rate on the  
24 income in excess of the amount in column E;

25                   (e) For taxable years beginning or deemed to begin  
26 before January 1, 2003, under the Internal Revenue Code of 1986,  
27 as amended, the primary rate set by the Legislature shall be

1 multiplied by the following factors to compute the tax rates for  
2 column D. The factors for the brackets, from lowest to highest  
3 bracket, shall be .6784, .9432, 1.3541, and 1.8054;

4 (f) For taxable years beginning or deemed to begin on  
5 or after January 1, 2003, and before January 1, 2013, under the  
6 Internal Revenue Code of 1986, as amended, the primary rate set  
7 by the Legislature shall be multiplied by the following factors to  
8 compute the tax rates for column D. The factors for the brackets,  
9 from lowest to highest bracket, shall be .6932, .9646, 1.3846, and  
10 1.848;

11 (g) The amounts for column C shall be rounded to the  
12 nearest dollar, and the amounts in column D shall be rounded to  
13 hundredths of one percent; and

14 (h) One rate schedule shall be established for each  
15 federal filing status.

16 ~~(3)~~ (2) The tax rate schedules shall use the format set  
17 forth in this subsection.

18	A	B	C	D	E
19	Taxable income	but not	pay	plus	of the
20	over	over			amount over

21 ~~(4)~~ (3) For taxable years beginning or deemed to  
22 begin before January 1, 2013, the tax rate applied to other federal  
23 taxes included in the computation of the Nebraska individual income  
24 tax shall be eight times the primary rate.

25 ~~(5)~~ The Tax Commissioner shall prepare, from the rate  
26 schedules, tax tables which can be used by a majority of the  
27 taxpayers to determine their Nebraska tax liability. The design of

1 the tax tables shall be determined by the Tax Commissioner. The  
2 size of the tax table brackets may change as the level of income  
3 changes. The difference in tax between two tax table brackets shall  
4 not exceed fifteen dollars. The Tax Commissioner may build the  
5 personal exemption credit and standard deduction amounts into the  
6 tax tables.

7 (6) The Tax Commissioner may require by rule and  
8 regulation that all taxpayers shall use the tax tables if their  
9 income is less than the maximum income included in the tax tables.

10 Sec. 5. (1) For taxable years beginning or deemed to  
11 begin on or after January 1, 2013, and before January 1, 2014,  
12 the following brackets and rates are hereby established for the  
13 Nebraska individual income tax:

14 Individual Income Tax Brackets and Rates

<u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>	
<u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>	
		<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>		
18	<u>1</u>	<u>\$0-2,399</u>	<u>\$0-4,799</u>	<u>\$0-4,499</u>	<u>\$0-2,399</u>	<u>\$0-499</u>	<u>2.45%</u>
19	<u>2</u>	<u>\$2,400-</u>	<u>\$4,800-</u>	<u>\$4,500-</u>	<u>\$2,400-</u>	<u>\$500-</u>	
20		<u>17,499</u>	<u>34,999</u>	<u>27,999</u>	<u>17,499</u>	<u>4,699</u>	<u>3.50%</u>
21	<u>3</u>	<u>\$17,500-</u>	<u>\$35,000-</u>	<u>\$28,000-</u>	<u>\$17,500-</u>	<u>\$4,700-</u>	
22		<u>26,999</u>	<u>53,999</u>	<u>39,999</u>	<u>26,999</u>	<u>15,149</u>	<u>5.00%</u>
23	<u>4</u>	<u>\$27,000</u>	<u>\$54,000</u>	<u>\$40,000</u>	<u>\$27,000</u>	<u>\$15,150</u>	
24		<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>6.84%</u>

25 (2) For taxable years beginning or deemed to begin  
26 on or after January 1, 2014, and before January 1, 2015, the  
27 following brackets and rates are hereby established for the  
28 Nebraska individual income tax:

1                    Individual Income Tax Brackets and Rates

2	<u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>
3	<u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>
4			<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>	
5	<u>1</u>	<u>\$0-2,999</u>	<u>\$0-5,999</u>	<u>\$0-5,599</u>	<u>\$0-2,999</u>	<u>\$0-499</u>	<u>2.45%</u>
6	<u>2</u>	<u>\$3,000-</u>	<u>\$6,000-</u>	<u>\$5,600-</u>	<u>\$3,000-</u>	<u>\$500-</u>	
7		<u>18,249</u>	<u>36,499</u>	<u>29,199</u>	<u>18,249</u>	<u>4,699</u>	<u>3.50%</u>
8	<u>3</u>	<u>\$18,250-</u>	<u>\$36,500-</u>	<u>\$29,200-</u>	<u>\$18,250-</u>	<u>\$4,700-</u>	
9		<u>29,999</u>	<u>59,999</u>	<u>44,499</u>	<u>29,999</u>	<u>15,149</u>	<u>5.00%</u>
10	<u>4</u>	<u>\$30,000</u>	<u>\$60,000</u>	<u>\$44,500</u>	<u>\$30,000</u>	<u>\$15,150</u>	
11		<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>6.80%</u>

12                    (3) For taxable years beginning or deemed to begin on or  
13 after January 1, 2015, the following brackets and rates are hereby  
14 established for the Nebraska individual income tax:

15                    Individual Income Tax Brackets and Rates

16	<u>Bracket</u>	<u>Single</u>	<u>Married,</u>	<u>Head of</u>	<u>Married,</u>	<u>Estates</u>	<u>Tax</u>
17	<u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>and</u>	<u>Rate</u>
18			<u>Jointly</u>		<u>Separate</u>	<u>Trusts</u>	
19	<u>1</u>	<u>\$0-2,999</u>	<u>\$0-5,999</u>	<u>\$0-5,599</u>	<u>\$0-2,999</u>	<u>\$0-499</u>	<u>2.42%</u>
20	<u>2</u>	<u>\$3,000-</u>	<u>\$6,000-</u>	<u>\$5,600-</u>	<u>\$3,000-</u>	<u>\$500-</u>	
21		<u>18,249</u>	<u>36,499</u>	<u>29,199</u>	<u>18,249</u>	<u>4,699</u>	<u>3.40%</u>
22	<u>3</u>	<u>\$18,250-</u>	<u>\$36,500-</u>	<u>\$29,200-</u>	<u>\$18,250-</u>	<u>\$4,700-</u>	
23		<u>29,999</u>	<u>59,999</u>	<u>44,499</u>	<u>29,999</u>	<u>15,149</u>	<u>4.90%</u>
24	<u>4</u>	<u>\$30,000</u>	<u>\$60,000</u>	<u>\$44,500</u>	<u>\$30,000</u>	<u>\$15,150</u>	
25		<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>and Over</u>	<u>6.70%</u>

26                    (4) Whenever the tax brackets or tax rates are changed  
27 by the Legislature, the Tax Commissioner shall update the tax rate  
28 schedules to reflect the new tax brackets or tax rates and shall

1 publish such updated schedules.

2 (5) The Tax Commissioner shall prepare, from the rate  
3 schedules, tax tables which can be used by a majority of the  
4 taxpayers to determine their Nebraska tax liability. The design of  
5 the tax tables shall be determined by the Tax Commissioner. The  
6 size of the tax table brackets may change as the level of income  
7 changes. The difference in tax between two tax table brackets shall  
8 not exceed fifteen dollars. The Tax Commissioner may build the  
9 personal exemption credit and standard deduction amounts into the  
10 tax tables.

11 (6) For taxable years beginning or deemed to begin on or  
12 after January 1, 2013, the tax rate applied to other federal taxes  
13 included in the computation of the Nebraska individual income tax  
14 shall be 29.6 percent.

15 (7) The Tax Commissioner may require by rule and  
16 regulation that all taxpayers shall use the tax tables if their  
17 income is less than the maximum income included in the tax tables.

18 Sec. 6. Section 77-2717, Revised Statutes Supplement,  
19 2011, is amended to read:

20 77-2717 (1)(a) The tax imposed on all resident estates  
21 and trusts shall be a percentage of the federal taxable income  
22 of such estates and trusts as modified in section 77-2716, plus  
23 a percentage of the federal alternative minimum tax and the  
24 federal tax on premature or lump-sum distributions from qualified  
25 retirement plans. The additional taxes shall be recomputed by (i)  
26 substituting Nebraska taxable income for federal taxable income,  
27 (ii) calculating what the federal alternative minimum tax would

1 be on Nebraska taxable income and adjusting such calculations for  
2 any items which are reflected differently in the determination of  
3 federal taxable income, and (iii) applying Nebraska rates to the  
4 result. The federal credit for prior year minimum tax, after the  
5 recomputations required by the Nebraska Revenue Act of 1967, and  
6 the credits provided in the Nebraska Advantage Microenterprise Tax  
7 Credit Act and the Nebraska Advantage Research and Development  
8 Act shall be allowed as a reduction in the income tax due. A  
9 refundable income tax credit shall be allowed for all resident  
10 estates and trusts under the Angel Investment Tax Credit Act, the  
11 Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska  
12 Advantage Research and Development Act.

13 (b) The tax imposed on all nonresident estates and trusts  
14 shall be the portion of the tax imposed on resident estates and  
15 trusts which is attributable to the income derived from sources  
16 within this state. The tax which is attributable to income derived  
17 from sources within this state shall be determined by multiplying  
18 the liability to this state for a resident estate or trust with  
19 the same total income by a fraction, the numerator of which is  
20 the nonresident estate's or trust's Nebraska income as determined  
21 by sections 77-2724 and 77-2725 and the denominator of which is  
22 its total federal income after first adjusting each by the amounts  
23 provided in section 77-2716. The federal credit for prior year  
24 minimum tax, after the recomputations required by the Nebraska  
25 Revenue Act of 1967, reduced by the percentage of the total income  
26 which is attributable to income from sources outside this state,  
27 and the credits provided in the Nebraska Advantage Microenterprise

1 Tax Credit Act and the Nebraska Advantage Research and Development  
2 Act shall be allowed as a reduction in the income tax due. A  
3 refundable income tax credit shall be allowed for all nonresident  
4 estates and trusts under the Angel Investment Tax Credit Act, the  
5 Nebraska Advantage Microenterprise Tax Credit Act, and the Nebraska  
6 Advantage Research and Development Act.

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

20 (3) The beneficiaries of such estate or trust who are  
21 residents of this state shall include in their income their  
22 proportionate share of such estate's or trust's federal income and  
23 shall reduce their Nebraska tax liability by their proportionate  
24 share of the credits as provided in the Angel Investment Tax Credit  
25 Act, the Nebraska Advantage Microenterprise Tax Credit Act, and  
26 the Nebraska Advantage Research and Development Act. There shall be  
27 allowed to a beneficiary a refundable income tax credit under the

1 Beginning Farmer Tax Credit Act for all taxable years beginning or  
2 deemed to begin on or after January 1, 2001, under the Internal  
3 Revenue Code of 1986, as amended.

4 (4) If any beneficiary of such estate or trust is a  
5 nonresident during any part of the estate's or trust's taxable  
6 year, he or she shall file a Nebraska income tax return which shall  
7 include (a) in Nebraska adjusted gross income that portion of the  
8 estate's or trust's Nebraska income, as determined under sections  
9 77-2724 and 77-2725, allocable to his or her interest in the  
10 estate or trust and (b) a reduction of the Nebraska tax liability  
11 by his or her proportionate share of the credits as provided  
12 in the Angel Investment Tax Credit Act, the Nebraska Advantage  
13 Microenterprise Tax Credit Act, and the Nebraska Advantage Research  
14 and Development Act and shall execute and forward to the fiduciary,  
15 on or before the original due date of the Nebraska fiduciary  
16 return, an agreement which states that he or she will file a  
17 Nebraska income tax return and pay income tax on all income derived  
18 from or connected with sources in this state, and such agreement  
19 shall be attached to the Nebraska fiduciary return for such taxable  
20 year.

21 (5) In the absence of the nonresident beneficiary's  
22 executed agreement being attached to the Nebraska fiduciary return,  
23 the estate or trust shall remit a portion of such beneficiary's  
24 income which was derived from or attributable to Nebraska sources  
25 with its Nebraska return for the taxable year. The For taxable  
26 years beginning or deemed to begin before January 1, 2013, the  
27 amount of remittance, in such instance, shall be the highest

1 individual income tax rate determined under section 77-2715.02  
2 multiplied by the nonresident beneficiary's share of the estate  
3 or trust income which was derived from or attributable to sources  
4 within this state. For taxable years beginning or deemed to  
5 begin on or after January 1, 2013, the amount of remittance,  
6 in such instance, shall be the highest individual income tax  
7 rate determined under section 5 of this act multiplied by the  
8 nonresident beneficiary's share of the estate or trust income which  
9 was derived from or attributable to sources within this state. The  
10 amount remitted shall be allowed as a credit against the Nebraska  
11 income tax liability of the beneficiary.

12 (6) The Tax Commissioner may allow a nonresident  
13 beneficiary to not file a Nebraska income tax return if the  
14 nonresident beneficiary's only source of Nebraska income was his or  
15 her share of the estate's or trust's income which was derived from  
16 or attributable to sources within this state, the nonresident did  
17 not file an agreement to file a Nebraska income tax return, and  
18 the estate or trust has remitted the amount required by subsection  
19 (5) of this section on behalf of such nonresident beneficiary. The  
20 amount remitted shall be retained in satisfaction of the Nebraska  
21 income tax liability of the nonresident beneficiary.

22 (7) For purposes of this section, unless the context  
23 otherwise requires, simple trust shall mean any trust instrument  
24 which (a) requires that all income shall be distributed currently  
25 to the beneficiaries, (b) does not allow amounts to be paid,  
26 permanently set aside, or used in the tax year for charitable  
27 purposes, and (c) does not distribute amounts allocated in the

1 corpus of the trust. Any trust which does not qualify as a simple  
2 trust shall be deemed a complex trust.

3 (8) For purposes of this section, any beneficiary of an  
4 estate or trust that is a grantor trust of a nonresident shall be  
5 disregarded and this section shall apply as though the nonresident  
6 grantor was the beneficiary.

7 Sec. 7. Section 77-2727, Reissue Revised Statutes of  
8 Nebraska, is amended to read:

9 77-2727 (1) A partnership as such shall not be subject  
10 to the income tax imposed by the Nebraska Revenue Act of 1967.  
11 Persons or their authorized representatives carrying on business  
12 as partners shall be liable for the income tax imposed by the  
13 Nebraska Revenue Act of 1967 only in their separate or individual  
14 capacities.

15 (2) The partners of such partnership who are residents  
16 of this state or corporations shall include in their incomes their  
17 proportionate share of such partnership's income.

18 (3) If any partner of such partnership is a nonresident  
19 individual during any part of the partnership's reporting year, he  
20 or she shall file a Nebraska income tax return which shall include  
21 in Nebraska adjusted gross income that portion of the partnership's  
22 Nebraska income, as determined under the provisions of sections  
23 77-2728 and 77-2729, allocable to his or her interest in the  
24 partnership and shall execute and forward to the partnership, on or  
25 before the original due date of the Nebraska partnership return,  
26 an agreement which states that he or she will file a Nebraska  
27 income tax return and pay income tax on all income derived from

1 or attributable to sources in this state, and such agreement shall  
2 be attached to the partnership's Nebraska return for such reporting  
3 year.

4 (4)(a) Except as provided in subdivision (c) of this  
5 subsection, in the absence of the nonresident individual partner's  
6 executed agreement being attached to the Nebraska partnership  
7 return, the partnership shall remit a portion of such partner's  
8 income which was derived from or attributable to Nebraska sources  
9 with its Nebraska return for the reporting year. The For tax years  
10 beginning or deemed to begin before January 1, 2013, the amount  
11 of remittance, in such instance, shall be the highest individual  
12 income tax rate determined under section 77-2715.02 multiplied  
13 by the nonresident individual partner's share of the partnership  
14 income which was derived from or attributable to sources within  
15 this state. For tax years beginning or deemed to begin on or  
16 after January 1, 2013, the amount of remittance, in such instance,  
17 shall be the highest individual income tax rate determined under  
18 section 5 of this act multiplied by the nonresident individual  
19 partner's share of the partnership income which was derived from or  
20 attributable to sources within this state.

21 (b) Any amount remitted on behalf of any partner shall be  
22 allowed as a credit against the Nebraska income tax liability of  
23 the partner.

24 (c) Subdivision (a) of this subsection does not apply to  
25 a publicly traded partnership as defined by section 7704(b) of the  
26 Internal Revenue Code of 1986, as amended, that is treated as a  
27 partnership for the purposes of the code and that has agreed to

1 file an annual information return with the Department of Revenue  
2 reporting the name, address, taxpayer identification number, and  
3 other information requested by the department of each unit holder  
4 with an income in the state in excess of five hundred dollars.

5 (5) The Tax Commissioner may allow a nonresident  
6 individual partner to not file a Nebraska income tax return if the  
7 nonresident individual partner's only source of Nebraska income was  
8 his or her share of the partnership's income which was derived from  
9 or attributable to sources within this state, the nonresident did  
10 not file an agreement to file a Nebraska income tax return, and the  
11 partnership has remitted the amount required by subsection (4) of  
12 this section on behalf of such nonresident individual partner. The  
13 amount remitted shall be retained in satisfaction of the Nebraska  
14 income tax liability of the nonresident individual partner.

15 (6) For purposes of this section, any partner that is  
16 a grantor trust of a nonresident shall be disregarded and this  
17 section shall apply as though the nonresident grantor was the  
18 partner.

19 Sec. 8. Section 77-2734.01, Revised Statutes Cumulative  
20 Supplement, 2010, is amended to read:

21 77-2734.01 (1) Residents of Nebraska who are shareholders  
22 of a small business corporation having an election in effect under  
23 subchapter S of the Internal Revenue Code or who are members  
24 of a limited liability company organized pursuant to the Limited  
25 Liability Company Act or the Nebraska Uniform Limited Liability  
26 Company Act shall include in their Nebraska taxable income, to  
27 the extent includable in federal gross income, their proportionate

1 share of such corporation's or limited liability company's federal  
2 income adjusted pursuant to this section. Income or loss from such  
3 corporation or limited liability company conducting a business,  
4 trade, profession, or occupation shall be included in the Nebraska  
5 taxable income of a shareholder or member who is a resident of this  
6 state to the extent of such shareholder's or member's proportionate  
7 share of the net income or loss from the conduct of such business,  
8 trade, profession, or occupation within this state, determined  
9 under subsection (2) of this section. A resident of Nebraska  
10 shall include in Nebraska taxable income fair compensation for  
11 services rendered to such corporation or limited liability company.  
12 Compensation actually paid shall be presumed to be fair unless  
13 it is apparent to the Tax Commissioner that such compensation is  
14 materially different from fair value for the services rendered or  
15 has been manipulated for tax avoidance purposes.

16 (2) The income of any small business corporation having  
17 an election in effect under subchapter S of the Internal Revenue  
18 Code or limited liability company organized pursuant to the Limited  
19 Liability Company Act or the Nebraska Uniform Limited Liability  
20 Company Act that is derived from or connected with Nebraska sources  
21 shall be determined in the following manner:

22 (a) If the small business corporation is a member of a  
23 unitary group, the small business corporation shall be deemed to  
24 be doing business within this state if any part of its income  
25 is derived from transactions with other members of the unitary  
26 group doing business within this state, and such corporation  
27 shall apportion its income by using the apportionment factor

1 determined for the entire unitary group, including the small  
2 business corporation, under sections 77-2734.05 to 77-2734.15;

3 (b) If the small business corporation or limited  
4 liability company is not a member of a unitary group and is subject  
5 to tax in another state, it shall apportion its income under  
6 sections 77-2734.05 to 77-2734.15; and

7 (c) If the small business corporation or limited  
8 liability company is not subject to tax in another state, all of  
9 its income is derived from or connected with Nebraska sources.

10 (3) Nonresidents of Nebraska who are shareholders of  
11 such corporations or members of such limited liability companies  
12 shall file a Nebraska income tax return and shall include in  
13 Nebraska adjusted gross income their proportionate share of the  
14 corporation's or limited liability company's Nebraska income as  
15 determined under subsection (2) of this section.

16 (4) The nonresident shareholder or member shall execute  
17 and forward to the corporation or limited liability company before  
18 the filing of the corporation's or limited liability company's  
19 return an agreement which states he or she will file a Nebraska  
20 income tax return and pay the tax on the income derived from or  
21 connected with sources in this state, and such agreement shall  
22 be attached to the corporation's or limited liability company's  
23 Nebraska return for such taxable year.

24 (5) ~~In~~ For taxable years beginning or deemed to begin  
25 before January 1, 2013, in the absence of the nonresident  
26 shareholder's or member's executed agreement being attached to  
27 the Nebraska return, the corporation or limited liability company

1 shall remit with the return an amount equal to the highest  
2 individual income tax rate determined under section 77-2715.02  
3 multiplied by the nonresident shareholder's or member's share of  
4 the corporation's or limited liability company's income which was  
5 derived from or attributable to this state. For taxable years  
6 beginning or deemed to begin on or after January 1, 2013, in  
7 the absence of the nonresident shareholder's or member's executed  
8 agreement being attached to the Nebraska return, the corporation  
9 or limited liability company shall remit with the return an amount  
10 equal to the highest individual income tax rate determined under  
11 section 5 of this act multiplied by the nonresident shareholder's  
12 or member's share of the corporation's or limited liability  
13 company's income which was derived from or attributable to this  
14 state. The amount remitted shall be allowed as a credit against the  
15 Nebraska income tax liability of the shareholder or member.

16 (6) The Tax Commissioner may allow a nonresident  
17 individual shareholder or member to not file a Nebraska income  
18 tax return if the nonresident individual shareholder's or member's  
19 only source of Nebraska income was his or her share of the small  
20 business corporation's or limited liability company's income which  
21 was derived from or attributable to sources within this state, the  
22 nonresident did not file an agreement to file a Nebraska income  
23 tax return, and the small business corporation or limited liability  
24 company has remitted the amount required by subsection (5) of this  
25 section on behalf of such nonresident individual shareholder or  
26 member. The amount remitted shall be retained in satisfaction of  
27 the Nebraska income tax liability of the nonresident individual

1 shareholder or member.

2 (7) A small business corporation or limited liability  
3 company return shall be filed only if one or more of the  
4 shareholders of the corporation or members of the limited liability  
5 company are not residents of the State of Nebraska or if such  
6 corporation or limited liability company has income derived from  
7 sources outside this state.

8 (8) For purposes of this section, any shareholder or  
9 member of the corporation or limited liability company that is  
10 a grantor trust of a nonresident shall be disregarded and this  
11 section shall apply as though the nonresident grantor was the  
12 shareholder or member.

13 Sec. 9. Section 77-2734.02, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 77-2734.02 (1) Except as provided in subsection (2) of  
16 this section, a tax is hereby imposed ~~for each taxable year~~ on the  
17 taxable income of every corporate taxpayer that is doing business  
18 in this state:

19 (a) For taxable years beginning or deemed to begin  
20 before January 1, 2013, at a rate equal to one hundred fifty and  
21 eight-tenths percent of the primary rate imposed on individuals  
22 under section 77-2701.01 on the first one hundred thousand dollars  
23 of taxable income and at the rate of two hundred eleven percent of  
24 such rate on all taxable income in excess of one hundred thousand  
25 dollars. The resultant rates shall be rounded to the nearest one  
26 hundredth of one percent; ~~and-~~

27 (b) For taxable years beginning or deemed to begin on

1 or after January 1, 2013, at a rate equal to 5.58 percent on the  
2 first one hundred thousand dollars of taxable income and at the  
3 rate of 7.81 percent on all taxable income in excess of one hundred  
4 thousand dollars.

5 For corporate taxpayers with a fiscal year that does not  
6 coincide with the calendar year, the individual rate used for this  
7 subsection shall be the rate in effect on the first day, or the day  
8 deemed to be the first day, of the taxable year.

9 (2) An insurance company shall be subject to taxation  
10 at the lesser of the rate described in subsection (1) of this  
11 section or the rate of tax imposed by the state or country in which  
12 the insurance company is domiciled if the insurance company can  
13 establish to the satisfaction of the Tax Commissioner that it is  
14 domiciled in a state or country other than Nebraska that imposes  
15 on Nebraska domiciled insurance companies a retaliatory tax against  
16 the tax described in subsection (1) of this section.

17 (3) For a corporate taxpayer that is subject to tax in  
18 another state, its taxable income shall be the portion of the  
19 taxpayer's federal taxable income, as adjusted, that is determined  
20 to be connected with the taxpayer's operations in this state  
21 pursuant to sections 77-2734.05 to 77-2734.15.

22 (4) Each corporate taxpayer shall file only one income  
23 tax return for each taxable year.

24 Sec. 10. Original sections 77-2701, 77-2701.01,  
25 77-2715.01, 77-2715.02, 77-2727, and 77-2734.02, Reissue Revised  
26 Statutes of Nebraska, section 77-2734.01, Revised Statutes  
27 Cumulative Supplement, 2010, and section 77-2717, Revised Statutes

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1 Supplement, 2011, are repealed.