

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 752**

Introduced by Avery, 28.

Read first time January 04, 2012

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-2701 and 77-2734.03, Reissue Revised Statutes of  
3 Nebraska, and sections 77-2715.07 and 77-2717, Revised  
4 Statutes Supplement, 2011; to provide an income tax  
5 credit relating to grape growing and wine producing; to  
6 harmonize provisions; and to repeal the original  
7 sections.

8 Be it enacted by the people of the State of Nebraska,

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

3           77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to  
4 77-27,236 and section 2 of this act shall be known and may be cited  
5 as the Nebraska Revenue Act of 1967.

6           Sec. 2. (1) For all tax years beginning on or after  
7 January 1, 2013, any qualified taxpayer may receive a credit against  
8 the income tax imposed by the Nebraska Revenue Act of 1967 in an  
9 amount equal to twenty-five percent of the purchase price of eligible  
10 equipment or eligible material purchased during the tax year.

11           (2) To claim the credit authorized under this section, a  
12 taxpayer shall apply to the Department of Revenue and shall specify  
13 the total amount of the credit requested. The taxpayer shall provide  
14 documentation as required by the department to verify that the  
15 taxpayer is a qualified taxpayer under this section and that all  
16 other requirements of this section have been met. If the application  
17 is approved, the department shall calculate the amount of the credit  
18 and issue a certificate to the qualified taxpayer evidencing the  
19 credit.

20           (3) A credit shall not be allowed for utilities, labor  
21 costs, service costs, repair costs, maintenance costs, construction  
22 costs, gifts or merchandise, general supplies, or used or rented  
23 equipment and materials.

24           (4) Any credit approved under this section shall be  
25 reduced by any amounts owed by the qualified taxpayer to the state

1 for delinquent taxes, interest, or penalties.

2 (5) Any credits allowed under this section are  
3 nonrefundable and nontransferable and may not be carried forward or  
4 back.

5 (6) A qualified taxpayer may only apply for and receive a  
6 credit authorized by this section for three tax periods.

7 (7) For purposes of this section:

8 (a) Eligible equipment means new equipment used directly  
9 in the growing of grapes or the production of wine in Nebraska.  
10 Eligible equipment includes, but is not limited to, barrels, bins,  
11 bottle-filling equipment, capsuling equipment, corkers, crusher and  
12 de-stemmers, fermenters, filters and filtersheets, glassware cleaner,  
13 grape harvesters, irrigation equipment, labeling equipment, post hole  
14 diggers, presses, pumps, refractometers, seeders, tanks, tractors,  
15 and weeding and spraying equipment;

16 (b) Eligible material means new materials used directly  
17 in the growing of grapes or the production of wine in Nebraska.  
18 Eligible material includes bottles, chemicals, corks, caps, capsules,  
19 dirt earth anchors, fermentation nutrients, fertilizer, grape juice  
20 concentrates, grapes and grape plants, herbicides, labels, poles,  
21 posts, sugar, wine, wire, and yeast;

22 (c) Purchase price means the retail or wholesale price of  
23 the eligible equipment or eligible material. Purchase price does not  
24 include the amount paid for sales tax, delivery, shipping and  
25 handling, or installation costs; and

1           (d) Qualified taxpayer means an individual, a  
2 partnership, a limited liability company, or a corporation that (i)  
3 is subject to the income tax imposed by the Nebraska Revenue Act of  
4 1967, (ii) is a grape grower or wine producer, and (iii) for a  
5 taxpayer other than an individual, is headquartered and physically  
6 located in Nebraska and organized under Nebraska law.

7           Sec. 3. Section 77-2715.07, Revised Statutes Supplement,  
8 2011, is amended to read:

9           77-2715.07 (1) There shall be allowed to qualified  
10 resident individuals as a nonrefundable credit against the income tax  
11 imposed by the Nebraska Revenue Act of 1967:

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

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

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

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

23           (b) For returns filed reporting federal adjusted gross  
24 income of twenty-nine thousand dollars or less, a refundable credit  
25 equal to a percentage of the federal credit allowable under section

1 21 of the Internal Revenue Code of 1986, as amended, whether or not  
2 the federal credit was limited by the federal tax liability. The  
3 percentage of the federal credit shall be one hundred percent for  
4 incomes not greater than twenty-two thousand dollars, and the  
5 percentage shall be reduced by ten percent for each one thousand  
6 dollars, or fraction thereof, by which the reported federal adjusted  
7 gross income exceeds twenty-two thousand dollars;

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

14 (d) A refundable credit for individuals who qualify for  
15 an income tax credit under the Angel Investment Tax Credit Act, the  
16 Nebraska Advantage Microenterprise Tax Credit Act, or the Nebraska  
17 Advantage Research and Development Act; and

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

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

24 (a) A credit for personal exemptions allowed under  
25 section 77-2716.01;

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

9           (c) A credit for investment in a biodiesel facility as  
10 provided in section 77-27,236; ~~and -~~

11           (d) A credit for purchases of grape-growing and wine-  
12 producing equipment and materials as provided in section 2 of this  
13 act.

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

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

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

21           (c) A refundable credit for individuals who qualify for  
22 an income tax credit as an owner of agricultural assets under the  
23 Beginning Farmer Tax Credit Act for all taxable years beginning or  
24 deemed to begin on or after January 1, 2009, under the Internal  
25 Revenue Code of 1986, as amended. The credit allowed for each

1 partner, shareholder, member, or beneficiary of a partnership,  
2 corporation, limited liability company, or estate or trust qualifying  
3 for an income tax credit as an owner of agricultural assets under the  
4 Beginning Farmer Tax Credit Act shall be equal to the partner's,  
5 shareholder's, member's, or beneficiary's portion of the amount of  
6 tax credit distributed pursuant to subsection (4) of section 77-5211.

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

17           (b) For all taxable years beginning on or after January  
18 1, 2009, under the Internal Revenue Code of 1986, as amended, there  
19 shall be allowed to each partner, shareholder, member, or beneficiary  
20 of a partnership, subchapter S corporation, limited liability  
21 company, or estate or trust a nonrefundable credit against the income  
22 tax imposed by the Nebraska Revenue Act of 1967 equal to the  
23 partner's, shareholder's, member's, or beneficiary's portion of the  
24 amount of franchise tax paid to the state under sections 77-3801 to  
25 77-3807 by a financial institution.

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

8                   Sec. 4. Section 77-2717, Revised Statutes Supplement,  
9 2011, is amended to read:

10                   77-2717 (1)(a) The tax imposed on all resident estates  
11 and trusts shall be a percentage of the federal taxable income of  
12 such estates and trusts as modified in section 77-2716, plus a  
13 percentage of the federal alternative minimum tax and the federal tax  
14 on premature or lump-sum distributions from qualified retirement  
15 plans. The additional taxes shall be recomputed by (i) substituting  
16 Nebraska taxable income for federal taxable income, (ii) calculating  
17 what the federal alternative minimum tax would be on Nebraska taxable  
18 income and adjusting such calculations for any items which are  
19 reflected differently in the determination of federal taxable income,  
20 and (iii) applying Nebraska rates to the result. The federal credit  
21 for prior year minimum tax, after the recomputations required by the  
22 Nebraska Revenue Act of 1967, and the credits provided in the  
23 Nebraska Advantage Microenterprise Tax Credit Act and the Nebraska  
24 Advantage Research and Development Act shall be allowed as a  
25 reduction in the income tax due. A refundable income tax credit shall



1 be allowed for all resident estates and trusts under the Angel  
2 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax  
3 Credit Act, and the Nebraska Advantage Research and Development Act.  
4 A nonrefundable income tax credit shall be allowed for all resident  
5 estates and trusts as provided in section 2 of this act.

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

1 A nonrefundable income tax credit shall be allowed for all  
2 nonresident estates and trusts as provided in section 2 of this act.

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

15           (3) The beneficiaries of such estate or trust who are  
16 residents of this state shall include in their income their  
17 proportionate share of such estate's or trust's federal income and  
18 shall reduce their Nebraska tax liability by their proportionate  
19 share of the credits as provided in section 2 of this act and the  
20 Angel Investment Tax Credit Act, the Nebraska Advantage  
21 Microenterprise Tax Credit Act, and the Nebraska Advantage Research  
22 and Development Act. There shall be allowed to a beneficiary a  
23 refundable income tax credit under the Beginning Farmer Tax Credit  
24 Act for all taxable years beginning or deemed to begin on or after  
25 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

1                   (4) If any beneficiary of such estate or trust is a  
2 nonresident during any part of the estate's or trust's taxable year,  
3 he or she shall file a Nebraska income tax return which shall include  
4 (a) in Nebraska adjusted gross income that portion of the estate's or  
5 trust's Nebraska income, as determined under sections 77-2724 and  
6 77-2725, allocable to his or her interest in the estate or trust and  
7 (b) a reduction of the Nebraska tax liability by his or her  
8 proportionate share of the credits as provided in section 2 of this  
9 act and the Angel Investment Tax Credit Act, the Nebraska Advantage  
10 Microenterprise Tax Credit Act, and the Nebraska Advantage Research  
11 and Development Act and shall execute and forward to the fiduciary,  
12 on or before the original due date of the Nebraska fiduciary return,  
13 an agreement which states that he or she will file a Nebraska income  
14 tax return and pay income tax on all income derived from or connected  
15 with sources in this state, and such agreement shall be attached to  
16 the Nebraska fiduciary return for such taxable year.

17                   (5) In the absence of the nonresident beneficiary's  
18 executed agreement being attached to the Nebraska fiduciary return,  
19 the estate or trust shall remit a portion of such beneficiary's  
20 income which was derived from or attributable to Nebraska sources  
21 with its Nebraska return for the taxable year. The amount of  
22 remittance, in such instance, shall be the highest individual income  
23 tax rate determined under section 77-2715.02 multiplied by the  
24 nonresident beneficiary's share of the estate or trust income which  
25 was derived from or attributable to sources within this state. The

1 amount remitted shall be allowed as a credit against the Nebraska  
2 income tax liability of the beneficiary.

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

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

21 (8) For purposes of this section, any beneficiary of an  
22 estate or trust that is a grantor trust of a nonresident shall be  
23 disregarded and this section shall apply as though the nonresident  
24 grantor was the beneficiary.

25 Sec. 5. Section 77-2734.03, Reissue Revised Statutes of

1 Nebraska, 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, or  
6 (iii) credit union shall be credited, in the computation of the tax  
7 due under the Nebraska Revenue Act of 1967, with the amount paid  
8 during the taxable year as taxes on such premiums and assessments and  
9 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 under  
13 the Joint Public Power Authority Act, or any credit union shall be  
14 credited, in the computation of the tax due under the Nebraska  
15 Revenue Act of 1967, with the amount paid during the taxable year as  
16 (i) taxes on such premiums and assessments included as Nebraska  
17 premiums and assessments under section 77-2734.05 and (ii) taxes in  
18 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 as  
24 assessments allowed as an offset against premium and related  
25 retaliatory tax liability pursuant to section 44-4233.

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

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

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

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

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

19           (7) There shall be allowed to corporate taxpayers a  
20 nonrefundable income tax credit for purchases of grape-growing and  
21 wine-producing equipment and materials as provided in section 2 of  
22 this act.

23           Sec. 6. Original sections 77-2701 and 77-2734.03, Reissue  
24 Revised Statutes of Nebraska, and sections 77-2715.07 and 77-2717,  
25 Revised Statutes Supplement, 2011, are repealed.