

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 970**

Introduced by Cornett, 45; at the request of the Governor.

Read first time January 12, 2012

Committee:

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections  
2 77-2001, 77-2701, 77-2701.01, 77-2715.01, 77-2715.02,  
3 77-2727, and 77-2734.02, Reissue Revised Statutes of  
4 Nebraska, section 77-2734.01, Revised Statutes Cumulative  
5 Supplement, 2010, and section 77-2717, Revised Statutes  
6 Supplement, 2011; to terminate the inheritance tax; to  
7 change income tax rates and calculation; to harmonize  
8 provisions; and to repeal the original sections.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-2001, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           77-2001 All property, including proceeds of life  
4 insurance receivable by the executor or administrator to the extent  
5 of the amount receivable by the executor or administrator as  
6 insurance under policies upon the life of the decedent, which shall  
7 pass by will or by the intestate laws of this state from any person  
8 dying before January 1, 2013, who, at the time of death was a  
9 resident of this state, or, if the decedent was not a resident, any  
10 part of the property within this state, except property exempted by  
11 the provisions of Chapter 77, article 20, shall be subject to tax at  
12 the rates prescribed by sections 77-2004 to 77-2006.

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

15           77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to  
16 77-27,236 and section 6 of this act shall be known and may be cited  
17 as the Nebraska Revenue Act of 1967.

18           Sec. 3. Section 77-2701.01, Reissue Revised Statutes of  
19 Nebraska, is amended to read:

20           77-2701.01 Pursuant to section 77-2715.01, for all  
21 taxable years beginning or deemed to begin on or after January 1,  
22 1990, and before January 1, 1991, under the Internal Revenue Code of  
23 1986, as amended, the rate of the income tax levied pursuant to  
24 section 77-2715 shall be three and forty-three-hundredths percent.  
25 Pursuant to section 77-2715.01, for all taxable years beginning or

1 deemed to begin on or after January 1, 1991, and before January 1,  
2 2013, under the Internal Revenue Code of 1986, as amended, the rate  
3 of the income tax levied pursuant to section 77-2715 shall be three  
4 and seventy-hundredths percent. Pursuant to section 77-2715.01, for  
5 all taxable years beginning or deemed to begin on or after January 1,  
6 2013, under the Internal Revenue Code of 1986, as amended, the rates  
7 of the income tax levied pursuant to section 77-2715 shall be as  
8 provided in section 6 of this act.

9           Sec. 4. Section 77-2715.01, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11           77-2715.01 (1)(a) Commencing in 1987 the Legislature  
12 shall set the ~~rate~~rates for the income tax imposed by section  
13 77-2715 and the rate of the sales tax imposed by subsection (1) of  
14 section 77-2703. ~~The~~For taxable years beginning or deemed to begin  
15 before January 1, 2013, the rate of the income tax set by the  
16 Legislature shall be considered the primary rate for establishing the  
17 tax rate schedules used to compute the tax.

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

1 appropriations and express obligations of the state.

2 (c) For purposes of this section, express obligation  
3 shall mean an obligation which has fiscal impact identifiable by a  
4 sum certain or by an established percentage or other determinative  
5 factor or factors.

6 (2) The Speaker of the Legislature and the chairpersons  
7 of the Legislature's Executive Board, Revenue Committee, and  
8 Appropriations Committee shall meet with the Tax Commissioner within  
9 ten days after July 15 and November 15 of each year and shall  
10 determine whether the rates for sales tax and income tax should be  
11 changed. In making such determination they shall recalculate the  
12 requirements pursuant to the formula set forth in subsection (1) of  
13 this section, taking into consideration the appropriations and  
14 express obligations for any session, all miscellaneous claims,  
15 deficiency bills, and all emergency appropriations.

16 In the event it is determined by a majority vote that the  
17 rates must be changed as a result of a regular or special session or  
18 as a result of a change in the Internal Revenue Code of 1986 and  
19 amendments thereto, other provisions of the laws of the United States  
20 relating to federal income taxes, and the rules and regulations  
21 issued under such laws, they shall petition the Governor to call a  
22 special session of the Legislature to make whatever rate changes may  
23 be necessary.

24 Sec. 5. Section 77-2715.02, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

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

6                   ~~(2)~~(1) The following rate schedules are hereby  
7 established for the Nebraska individual income tax and shall be in  
8 the following form:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (e) For taxable years beginning or deemed to begin before  
12 January 1, 2003, under the Internal Revenue Code of 1986, as amended,  
13 the primary rate set by the Legislature shall be multiplied by the  
14 following factors to compute the tax rates for column D. The factors  
15 for the brackets, from lowest to highest bracket, shall be .6784, .  
16 9432, 1.3541, and 1.8054;

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

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

1 (h) One rate schedule shall be established for each  
 2 federal filing status.

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

5	A	B	C	D	E
6	Taxable income	but not	pay	plus	of the
7	over	over			amount over

8 ~~(4)~~ (3) For taxable years beginning or deemed to  
 9 begin before January 1, 2013, the tax rate applied to other federal  
 10 taxes included in the computation of the Nebraska individual income  
 11 tax shall be eight times the primary rate.

12 ~~(5)~~ The Tax Commissioner shall prepare, from the rate  
 13 schedules, tax tables which can be used by a majority of the  
 14 taxpayers to determine their Nebraska tax liability. The design of  
 15 the tax tables shall be determined by the Tax Commissioner. The size  
 16 of the tax table brackets may change as the level of income changes.  
 17 The difference in tax between two tax table brackets shall not exceed  
 18 fifteen dollars. The Tax Commissioner may build the personal  
 19 exemption credit and standard deduction amounts into the tax tables.

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

23 Sec. 6. (1) For taxable years beginning or deemed to  
 24 begin on or after January 1, 2013, the following brackets and rates  
 25 are hereby established for the 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>	
3	<u>Number</u>	<u>Individuals</u>	<u>Filing</u>	<u>Household</u>	<u>Filing</u>	<u>Trusts</u>	<u>Tax</u>
4			<u>Jointly</u>		<u>Separate</u>		<u>Rate</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>2.42%</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>3.40%</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>4.90%</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>6.70%</u>

12 (2) Whenever the tax brackets or tax rates are changed by  
 13 the Legislature, the Tax Commissioner shall update the tax rate  
 14 schedules to reflect the new tax brackets or tax rates and shall  
 15 publish such updated schedules.

16 (3) The Tax Commissioner shall prepare, from the rate  
 17 schedules, tax tables which can be used by a majority of the  
 18 taxpayers to determine their Nebraska tax liability. The design of  
 19 the tax tables shall be determined by the Tax Commissioner. The size  
 20 of the tax table brackets may change as the level of income changes.  
 21 The difference in tax between two tax table brackets shall not exceed



1 fifteen dollars. The Tax Commissioner may build the personal  
2 exemption credit and standard deduction amounts into the tax tables.

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

7 (5) 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. 7. Section 77-2717, Revised Statutes Supplement,  
11 2011, is amended to read:

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

1 Advantage Research and Development Act shall be allowed as a  
2 reduction in the income tax due. A refundable income tax credit shall  
3 be allowed for all resident estates and trusts under the Angel  
4 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax  
5 Credit Act, and the Nebraska Advantage Research and Development 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           (2) In all instances wherein a fiduciary income tax  
2 return is required under the provisions of the Internal Revenue Code,  
3 a Nebraska fiduciary return shall be filed, except that a fiduciary  
4 return shall not be required to be filed regarding a simple trust if  
5 all of the trust's beneficiaries are residents of the State of  
6 Nebraska, all of the trust's income is derived from sources in this  
7 state, and the trust has no federal tax liability. The fiduciary  
8 shall be responsible for making the return for the estate or trust  
9 for which he or she acts, whether the income be taxable to the estate  
10 or trust or to the beneficiaries thereof. The fiduciary shall include  
11 in the return a statement of each beneficiary's distributive share of  
12 net income when such income is taxable to such beneficiaries.

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

24           (4) If any beneficiary of such estate or trust is a  
25 nonresident during any part of the estate's or trust's taxable year,

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

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

1 2013, the amount of remittance, in such instance, shall be the  
2 highest individual income tax rate determined under section 6 of this  
3 act multiplied by the nonresident beneficiary's share of the estate  
4 or trust income which was derived from or attributable to sources  
5 within this state. The amount remitted shall be allowed as a credit  
6 against the Nebraska income tax liability of the beneficiary.

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

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

25           (8) For purposes of this section, any beneficiary of an

1 estate or trust that is a grantor trust of a nonresident shall be  
2 disregarded and this section shall apply as though the nonresident  
3 grantor was the beneficiary.

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

6           77-2727 (1) A partnership as such shall not be subject to  
7 the income tax imposed by the Nebraska Revenue Act of 1967. Persons  
8 or their authorized representatives carrying on business as partners  
9 shall be liable for the income tax imposed by the Nebraska Revenue  
10 Act of 1967 only in their separate or individual capacities.

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

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

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

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

21           (c) Subdivision (a) of this subsection does not apply to  
22 a publicly traded partnership as defined by section 7704(b) of the  
23 Internal Revenue Code of 1986, as amended, that is treated as a  
24 partnership for the purposes of the code and that has agreed to file  
25 an annual information return with the Department of Revenue reporting

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

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

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

17 Sec. 9. Section 77-2734.01, Revised Statutes Cumulative  
18 Supplement, 2010, is amended to read:

19 77-2734.01 (1) Residents of Nebraska who are shareholders  
20 of a small business corporation having an election in effect under  
21 subchapter S of the Internal Revenue Code or who are members of a  
22 limited liability company organized pursuant to the Limited Liability  
23 Company Act or the Nebraska Uniform Limited Liability Company Act  
24 shall include in their Nebraska taxable income, to the extent  
25 includable in federal gross income, their proportionate share of such



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

16 (2) The income of any small business corporation having  
17 an election in effect under subchapter S of the Internal Revenue Code  
18 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 be  
24 doing business within this state if any part of its income is derived  
25 from transactions with other members of the unitary group doing

1 business within this state, and such corporation shall apportion its  
2 income by using the apportionment factor determined for the entire  
3 unitary group, including the small business corporation, under  
4 sections 77-2734.05 to 77-2734.15;

5 (b) If the small business corporation or limited  
6 liability company is not a member of a unitary group and is subject  
7 to tax in another state, it shall apportion its income under sections  
8 77-2734.05 to 77-2734.15; and

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

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

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

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

20                   (6) The Tax Commissioner may allow a nonresident  
21 individual shareholder or member to not file a Nebraska income tax  
22 return if the nonresident individual shareholder's or member's only  
23 source of Nebraska income was his or her share of the small business  
24 corporation's or limited liability company's income which was derived  
25 from or attributable to sources within this state, the nonresident

1 did not file an agreement to file a Nebraska income tax return, and  
2 the small business corporation or limited liability company has  
3 remitted the amount required by subsection (5) of this section on  
4 behalf of such nonresident individual shareholder or member. The  
5 amount remitted shall be retained in satisfaction of the Nebraska  
6 income tax liability of the nonresident individual shareholder or  
7 member.

8 (7) A small business corporation or limited liability  
9 company return shall be filed only if one or more of the shareholders  
10 of the corporation or members of the limited liability company are  
11 not residents of the State of Nebraska or if such corporation or  
12 limited liability company has income derived from sources outside  
13 this state.

14 (8) For purposes of this section, any shareholder or  
15 member of the corporation or limited liability company that is a  
16 grantor trust of a nonresident shall be disregarded and this section  
17 shall apply as though the nonresident grantor was the shareholder or  
18 member.

19 Sec. 10. Section 77-2734.02, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21 77-2734.02 (1) Except as provided in subsection (2) of  
22 this section, a tax is hereby imposed ~~for each taxable year~~ on the  
23 taxable income of every corporate taxpayer that is doing business in  
24 this state:

25 (a) For taxable years beginning or deemed to begin before

1 January 1, 2013, at a rate equal to one hundred fifty and eight-  
2 tenths percent of the primary rate imposed on individuals under  
3 section 77-2701.01 on the first one hundred thousand dollars of  
4 taxable income and at the rate of two hundred eleven percent of such  
5 rate on all taxable income in excess of one hundred thousand dollars.  
6 The resultant rates shall be rounded to the nearest one hundredth of  
7 one percent; and -

8 (b) For taxable years beginning or deemed to begin on or  
9 after January 1, 2013, at a rate equal to 5.58 percent on the first  
10 one hundred thousand dollars of taxable income and at the rate of  
11 6.70 percent on all taxable income in excess of one hundred thousand  
12 dollars.

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

17 (2) An insurance company shall be subject to taxation at  
18 the lesser of the rate described in subsection (1) of this section or  
19 the rate of tax imposed by the state or country in which the  
20 insurance company is domiciled if the insurance company can establish  
21 to the satisfaction of the Tax Commissioner that it is domiciled in a  
22 state or country other than Nebraska that imposes on Nebraska  
23 domiciled insurance companies a retaliatory tax against the tax  
24 described in subsection (1) of this section.

25 (3) For a corporate taxpayer that is subject to tax in

1 another state, its taxable income shall be the portion of the  
2 taxpayer's federal taxable income, as adjusted, that is determined to  
3 be connected with the taxpayer's operations in this state pursuant to  
4 sections 77-2734.05 to 77-2734.15.

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

7 Sec. 11. Original sections 77-2001, 77-2701, 77-2701.01,  
8 77-2715.01, 77-2715.02, 77-2727, and 77-2734.02, Reissue Revised  
9 Statutes of Nebraska, section 77-2734.01, Revised Statutes Cumulative  
10 Supplement, 2010, and section 77-2717, Revised Statutes Supplement,  
11 2011, are repealed.