



NEBRASKA EMPLOYMENT AND INVESTMENT CREDIT COMPUTATION for Tax Years after 2003 and Before 2006

FORM 3800N

Attach this form to the original or amended return.

beginning and ending

Name as Shown on Return, Social Security No. or Nebraska I.D. No., Type of Return (1) 1040N, (2) 1120N, (3) 1065N, (4) 1120-SN, (5) 1041N, (6) 1120NF

1 Qualifying Business Type (check only one—see instructions). If this is your initial claim, attach a complete explanation of your business activity.

- (1) Assembly, fabrication, manufacture, or processing of tangible personal property
(2) Storage, warehousing, distribution, transportation, or sale of tangible personal property
(3) Feeding of livestock
(4) Farming or ranching
(5) Conducting research, development, or testing for scientific, agricultural, animal husbandry, or industrial purposes
(6) Performance of data processing, telecommunication, insurance, or financial services
(7) Administrative management or headquarters of any activity which includes items 1 through 6 above, or the headquarters of a retailer
(8) Any combination of activities 1 through 7; list types:

2 (1) Single location (2) Multiple locations (3) Related parties 3 Total sales which are retail (percent): %

4 Reason for filing (3) Report employment and investment for two years after credits claimed

• Taxpayers claiming original tax credits must increase both employment and investment levels by the required amounts in the same tax year.

QUALIFIED NEBRASKA EMPLOYEE CALCULATION (see instructions)

Table with columns: Business Began in NE, Indicate your NE Withholding Tax No., (A) Total Hours Paid, (B) Full-Time Equivalent Nebraska Employees. Rows 5-8 for employee counts.

NEBRASKA QUALIFIED INVESTMENT CALCULATION

Table with columns: Enter Tax Year mo. / day / yr., (A) Beginning of Year, (B) End of Year, (C) AVERAGE (Divide Total of Columns A and B by 2). Rows 9-31 for investment calculations.

**MAINTENANCE AND RECAPTURE SCHEDULE**

• If you check "Yes" on lines 32 or 33, you may be subject to recapture provisions.  
Contact the Nebraska Department of Revenue for further instructions.

32 Were you in recapture last year (see instructions)?  YES  NO

33 Is the number of full-time equivalent employees in Nebraska or the amount of qualified investment for the current year less than in the year in which credits were earned?  YES  NO

**Employment Expansion and Investment Incentive Act (LB 270) Credit Distribution Only**

**Distribution of Credits by Partnerships, S Corporations, Limited Liability Companies, and Certain Fiduciaries Only**

34 Distribution of Employment Expansion and Investment Incentive Act credit among partners, shareholders, members, and beneficiaries. Enter in the space provided the partner's, shareholder's, member's, or beneficiary's name, social security number or federal identification number, share of income or ownership, and appropriate share of the credit.

Name of Partners, Shareholders, Members or Beneficiaries	Social Security No. or Federal I.D. No.	Share of Income or Ownership	Year Credit Earned	Share of Credit
				\$
TOTAL of credits distributed (enter here and include on line 22)			100%	\$

**Employment Expansion and Investment Incentive Act (LB 270) Credits Received**

**Distributed Credits Received by Partners, S Corporation Shareholders, Limited Liability Company Members, and Certain Fiduciary Beneficiaries Only**

35 If any of the credit is from a partnership, S corporation, limited liability company, exempt cooperative, or fiduciary that distributes its income currently, enter in the space provided the name, address, Nebraska identification number, the year the credit was earned, and your share of the credit of each partnership, S corporation, limited liability company, or fiduciary.

Name	Address	Nebraska I.D. Number	Year Credit Earned	Share of Credit
				\$
TOTAL of credits received (enter here and include on line 14)				

**LB 775 Credits Received Through Distribution**

**Distributed Credits Received by Partners, S Corporation Shareholders, Limited Liability Company Members, and Certain Fiduciary Beneficiaries Only**

36 If any of the credit is from a partnership, S corporation, limited liability company, exempt cooperative, or fiduciary that distributes its income currently, enter in the space provided the name, address, Nebraska identification number, the year the credit was earned, and your share of the credit of each partnership, S corporation, limited liability company, or fiduciary.

Name	Address	Nebraska I.D. Number	Year Credit Earned	Share of Credit
				\$

TOTAL of your share of distributed credits.....	<b>36</b>		
37 Total distributed credits carried forward from earlier year(s).....	<b>37</b>		
38 Total amount of distributed credits available for use (line 36 plus line 37).....	<b>38</b>		
39 Nebraska income tax liability after all other non-refundable credits.....	<b>39</b>		
40 Credits to reduce income tax liability. Enter here and on line 25 .....	<b>40</b>		
41 Total credits to be carried forward (line 38 minus line 40)	<b>41</b>	\$	

## INSTRUCTIONS

These instructions are primarily for those taxpayers claiming credits under the Employment Expansion and Investment Incentive Act (LB 270).

### SPECIAL INSTRUCTIONS FOR TAXPAYERS CLAIMING CREDIT UNDER EMPLOYMENT AND INVESTMENT GROWTH ACT (LB 775)

If the business is using the Employment and Investment Growth Act credit to reduce its income tax liability, complete line 1 and lines 36 through 41. Enter the amount of credit being used from Form 775N, and from line 40, Form 3800N on line 25. The other lines on Form 3800N do not have to be completed. If you are claiming credits from both the Employment and Investment Growth Act **and** the Employment Expansion and Investment Incentive Act, contact Audit Services of the Nebraska Department of Revenue for instructions before completing Form 3800N.

**WHO MUST FILE.** Every taxpayer must complete Nebraska Employment and Investment Credit Computation, Form 3800N, in order to use the credits allowed by the Employment Expansion and Investment Incentive Act and by the Employment and Investment Growth Act. The prior version of this form must be used to claim or amend LB 270 credits for tax year 2003 or earlier. LB 270 credits are not available for 2004 or after. **Every taxpayer who qualifies for credits under the Employment Expansion and Investment Incentive Act is required to file Form 3800N for the two years after the year in which credits were earned.** For example: if Company A filed Form 3800N and earned employment and investment incentive credits in tax year 2003, Company A must, at the minimum, file Form 3800N in tax years 2004 and 2005 even though all of the credits may have been used in 2002.

**WHEN AND WHERE TO FILE.** This computation must be completed and attached to the income tax return filed by an individual, corporation, fiduciary, partnership, limited liability company, or S corporation for which a credit is claimed.

**Partners, shareholders, members, or beneficiaries** who are allowed any distributive credits from a partnership, S corporation, limited liability company, or fiduciary should complete lines 16 through 31 and Credit Distribution, Form 3800N. A copy of the Form 3800N filed by the partnership, S corporation, limited liability company, or fiduciary must be attached to the taxpayer's Form 3800N. These credits may only be used to reduce the taxpayer's income tax liability.

**QUALIFYING BUSINESSES FOR LB 270** include those businesses listed on the front page of this form and include those businesses making sales of tangible personal property if more than 20 percent of the total sales are in any combination of the following:

- a. Sales for resale (wholesale sales),
- b. Sales of tangible personal property assembled, fabricated, manufactured, or processed by the seller, or
- c. Sales of tangible personal property used by the purchaser in any of the listed qualifying activities.

**NONQUALIFYING BUSINESSES** include any business in which 80 percent or more of the total sales of the business are retail sales of tangible personal property to the ultimate user or consumer of the property. Sales of tangible personal property that is assembled, fabricated, manufactured, or processed by the taxpayer or that is used by the purchaser in the business activities listed on the front page of this form are not considered retail sales for this test.

Thus, a business that sells goods to the consumer for his or her consumption will generally not qualify for the credit if such sales account for at least 80 percent of the business' total sales. A

manufacturer selling products to a wholesaler will qualify, as will a manufacturer or wholesaler selling products to a retail operation.

Businesses which do not qualify include:

- Restaurants,
- Most retailers,
- Contractors, repairpersons, installers, and most persons providing services.

A business conducting mixed activities must separate the activities into qualifying and nonqualifying calculations.

**ENTERPRISE ZONE.** If your location is within a Nebraska enterprise zone designated by the Department of Economic Development and you employ residents of the enterprise zone, you may qualify for increased credits. Request a Nebraska Schedule I – Enterprise Zone Credit Computation from the Nebraska Department of Revenue.

**FINANCIAL INSTITUTIONS** subject to the Nebraska financial institutions tax, may qualify for employment and investment credits. The credits cannot be used to reduce a financial institution's tax liability on Form 1120NF, but may be used to claim a Nebraska sales and use tax refund.

**EXISTING BUSINESS.** Credits will not be allowed for the acquisition of an existing business.

**RELATED PARTIES.** Any investment obtained in any manner from a related party, and any employees who were employed by a related party in the current year or the three preceding years, must be excluded from the credit computation.

Related parties include any corporations that are part of a unitary business, any other business entities that would be a part of the unitary business if they were corporations, and any business entities if at least 50 percent of such entities are owned by the same persons or related taxpayers and family members as defined in the ownership attribution rules of the Internal Revenue Code.

**MULTIPLE LOCATIONS.** One business location includes two or more parcels of real property within the same municipality or the same county when the business activities occurring on such parcels are interdependent. Being parts of the same unitary business is not sufficient to show interdependence between such parcels. A taxpayer with multiple business locations in Nebraska must provide the Nebraska identification number for each entity and calculate the employment and investment credits using two methods.

1. Compute the credits for each separate qualified business location of the taxpayer. The credits must be totaled for locations that qualify.
2. Compute credits based on the total business activity in the state, regardless of whether or not each location is a qualified business activity.

The taxpayer is entitled to the smaller of the two credit amounts computed under methods 1 and 2. **Copies of all workpapers used to calculate the credits under both methods must be attached to Form 3800N when filed.**

**NOTE:** You must increase **both** your employment by at least two employees **and** your investment by at least \$75,000 at the **same location** to qualify for any credits.

**FISCAL YEARS.** The tax year reported on the taxpayer's income tax return is the same period to be used when calculating the credits on Form 3800N.

**QUALIFIED EMPLOYEE LEASING COMPANY.** A qualified employee leasing company is a company that places **all** employees of a client-lessee on its payroll and leases such employees to the

client-lessee on an ongoing basis for a fee and, that also grants to the client-lessee input into hiring and firing decisions. A qualified employee leasing company does not include a temporary employment agency.

The increase in the number of employees is based on equivalent employees whether they are employees of the taxpayer or the qualified employee leasing company. In order to receive credits in 2001, the three prior years must be computed on a basis consistent with the 2001 computation.

**RECORDS.** All claimants must retain records for at least three years after the filing of the return claiming the credit. If the taxpayer will be utilizing the carryforward period to claim the credit calculated, the records supporting the original credit must be kept for a period of at least three years after the return is filed in which the credit carryforward is used.

**FAILURE TO MAINTAIN INVESTMENT AND EMPLOYMENT LEVELS.** A taxpayer is required to maintain the levels of employment and investment that created the credit for at least two years after the year in which the credit was allowed. If a taxpayer fails to maintain the required levels of employment and investment, the taxpayer will be subject to certain recapture provisions. See instructions for lines 32 and 33.

### SPECIFIC INSTRUCTIONS

**LOCATION ADDRESS.** List the business location in Nebraska where the investment and expanded employment occurred. This should include street address and city. Do not include the company's headquarters address unless this is either where the expansion occurred in Nebraska, or the expansion was at multiple locations.

**LINE 1.** Mark the box applicable to the business where the expansion occurred. You must mark one of the boxes. If none of the boxes applies to your business, you do not qualify for the credit. Contact the Nebraska Department of Revenue if you have a question about the qualification of your business.

**LINE 2.** Mark whether the business is located in a single or multiple locations. Also mark if there are related parties. See instructions on "Multiple Locations" or "Related Parties."

**LINE 3.** Enter the percent of the total sales of the business which are retail sales to the ultimate user or consumer. Do **not** include on this line the sale of tangible personal property which is assembled, fabricated, manufactured, or processed by the taxpayer or which is used by the purchaser in a qualified business activity.

**LINE 4.** Check box 3 and complete lines 1 through 12 and lines 32 and 33. If you intend to reduce your income tax liability, complete lines 13 through 31 in addition to the other requirements.

**LINES 5, 6, 7, AND 8. COLUMN A, TOTAL HOURS PAID.** Enter the total hours paid for all Nebraska employees during the current tax year and each of the three preceding tax years. **Nebraska employee** shall mean an employee who is either a full-year or partial-year resident of Nebraska.

If the business is new to Nebraska and did not have any Nebraska employees in one or more of the preceding tax years, enter 0.0 on lines 6, 7, or 8, as appropriate.

If you have **no** employees and lease employees from a qualified employee leasing company, include the hours worked by the leased employees during the current year and the three prior years.

**COLUMN B FULL-TIME EQUIVALENT NEBRASKA EMPLOYEES.** Divide the amount in Column A by 40 times the number of weeks in the tax year. Round to one decimal place and enter in Column B. For example, if the taxpayer's Nebraska employees were paid 44,000 hours during the year and the year was 52 weeks, enter 44,000 in Column A and 21.2 in Column B.  $[44,000 \div (40 \times 52) = 21.15]$

**If your actual increase in employment prior to rounding is less than two equivalent Nebraska employees, you do not qualify for tax credits.** For example, if the average employment for the current year is 14.7, and the highest preceding year's equivalent Nebraska employees is 12.9, the difference is 1.8. Therefore, the taxpayer has not increased employment by at least two equivalent Nebraska employees, and is not eligible for the credit.

**LINES 9, 10, 11, AND 12.** Enter in columns A, B, and C the beginning, ending, and average amounts of Nebraska investment in the current year and the three preceding years. This would include only investment in improvements to real property and tangible personal property that are depreciable under the Internal Revenue Code. **Do not include land, vehicles, planes, or railroad rolling stock.** The value of the property owned by the taxpayer is its tax basis before depreciation. Property rented is to be valued at the annual rental obligation, multiplied by eight, on each of the measuring points. Do not use rental expense to value rental property.

**LINE 13.** Enter the amount of Nebraska sales and use tax refunds claimed to date. This amount should include any amounts claimed, even if the taxpayer has not yet received the refund.

**LINE 23.** Enter the total of any LB 270 credits included on line 16 that were earned five years ago and were not used on lines 21 and 22 and any LB 270 credits that are no longer available due to recapture. Attach schedule with explanation.

**LINE 24.** Enter the difference between line 16, and the total of lines 21 and 22. This is the amount of the unused credit that can be carried over for five years, or used for sales tax refunds.

**LINE 26.** If you are not located in an enterprise zone, enter -0-. If you are claiming this credit, you must attach Nebraska Schedule I—Enterprise Zone Credit Computation.

**LINE 27. FOR FISCAL YEAR TAXPAYERS ONLY.** Enter the total Nebraska Advantage Act credit allowed by the qualification audit to be used to reduce income tax liability. Attach worksheet and qualification letter.

**LINE 29.** Enter the total LB 608 credits allowed by the qualification audit for which a refund is requested. LB 608 credits are not limited to the amount of Nebraska income tax liability on line 17. Attach a copy of the qualification letter received after the qualification audit.

**LINE 30. FOR FISCAL YEAR TAXPAYERS ONLY.** Enter the total Microenterprise credits certified. Attach a copy of the certification received.

**LINES 32 AND 33.** If you checked "YES" on lines 32 or 33, you may be subject to certain recapture provisions. Contact the Nebraska Department of Revenue, P.O. Box 94818, Lincoln, Nebraska 68509-4818, telephone (402) 471-5753, for further instructions.

**DISTRIBUTION OF CREDITS.** Each partnership, S corporation, limited liability company, and fiduciary that distributes its income currently must enter name, address, social security or federal identification number, the year credits were earned, and share of the credit for each partner, shareholder, member, or beneficiary. The share of credit is determined by multiplying the total amount to be distributed by the share of income or ownership of each partner, shareholder, member, or beneficiary. If credits earned in more than one year are distributed, complete a schedule for each year.

**CREDITS RECEIVED THROUGH DISTRIBUTION.** If you are filing Form 3800N to claim a credit distributed from a partnership, S corporation, limited liability company, or fiduciary that distributes its income currently, complete section for the type of credits received. If you receive credits under both incentive program, complete lines 36 through 41.

**LINE 40.** Credits used cannot exceed the lesser of line 38 or line 39.