

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 82

Introduced by Schumacher, 22.

Read first time January 10, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 39-2703, Revised Statutes Supplement, 2012; to adopt the
3 Taxpayer Investment Program; to harmonize provisions; to
4 provide severability; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) To encourage private investment and to
2 mobilize private capital for public purposes the Taxpayer Investment
3 Program is created.

4 (2) Any person may from time to time pay to the state an
5 advance tax payment. Each such payment made shall be known as a tax
6 investment and shall be identified on the books and records of the
7 Department of Revenue. Commencing on the earlier of five calendar
8 years after the making of a tax investment or, in the case of an
9 individual taxpayer, the taxpayer being sixty-two years of age, or
10 the death of the taxpayer, the taxpayer making the tax investment
11 shall be entitled to claim a tax credit against taxes owed to the
12 state in an amount equal to the tax investment multiplied by the
13 program rate.

14 (3) For purposes of this section, program rate means the
15 sum of (a) an inflation adjustment calculated by dividing the United
16 States Department of Labor, Bureau of Labor Statistics, Consumer
17 Price Index for All Urban Consumers, U.S. City Average, All Items
18 factor, on June 30 of the year the credit is claimed by the Consumer
19 Price Index for All Urban Consumers, U.S. City Average, All Items
20 factor, for the month in which the tax investment was made, plus (b)
21 the lesser of the annual United States Government Bond Yield for Ten-
22 Year Notes on the last business day of the month in which the tax
23 investment was made or five percent per annum, times the number of
24 years, or fraction thereof, between the making of the tax investment
25 and the claiming of the tax credit. If the Consumer Price Index for

1 All Urban Consumers is no longer published then the factor shall be
2 determined by use of an index having similar function.

3 (4) The sums paid to the state pursuant to the program
4 shall become the property of the state. The sums shall be credited to
5 the State Highway Capital Improvement Fund. The tax credits to which
6 the taxpayer may be entitled to claim as a result thereof are not a
7 debt or general obligation of the state. The tax credits (a) are not
8 refundable, (b) are not taxable as state income, (c) have recourse
9 only against state taxes otherwise coming due from the taxpayer or
10 taxpayer's assignee subsequent to the time when the claim for the tax
11 credit can be made pursuant to subsection (2) of this section, (d)
12 may be claimed only as a credit against the taxpayer's state taxes in
13 years subsequent to the time of commencement provided for in
14 subsection (2) of this section, and (e) except as provided in this
15 section, may not be transferred.

16 (5) Unless otherwise agreed between taxpayers, credit
17 arising out of payments made in a year in which a joint individual
18 tax return was filed shall be held as joint tenants with rights of
19 survivorship between such joint filers. A taxpayer's tax credits
20 remaining unclaimed upon the death of the taxpayer entitled to claim
21 the credit shall be applied to any state taxes due from the decedent
22 with the balance, if any, first reducing any inheritance tax arising
23 as a result of the death of such decedent, then applied to reimburse
24 the state for any aid or assistance paid by the state to or on behalf
25 of the decedent under Chapter 68, and then, upon payment to the state

1 of a transfer fee equal to ten percent of the credit, may be
2 transferred to the heirs or devisees of the decedent pursuant to the
3 laws of testacy or intestate succession. In cases not involving a
4 transfer from a decedent, upon payment of a transaction transfer fee
5 to the state of ten percent of the credit transferred and the
6 cancellation of the corresponding credit amount arising under
7 subdivision (3)(b) of this section, a credit, not to exceed the
8 underlying tax investment adjusted for inflation pursuant to
9 subdivision (3)(a) of this section, may be transferred. In such case,
10 the transferee shall be entitled to the credit transferred in the
11 same manner as if the taxpayer were the original depositor. A
12 transfer of credits in a merger, consolidation, reorganization, split
13 up, spin off, or similar restructuring of a business corporation,
14 professional corporation, or limited liability company shall not be a
15 transfer for purposes of this subsection. The credits shall not be
16 considered a security subject to the Securities Act of Nebraska.

17 (6) A taxpayer must claim credits held by the taxpayer on
18 a first paid, first claimed basis. Credits once claimed are
19 extinguished. The state may redeem outstanding credits by paying to
20 the taxpayer entitled thereto the tax investment multiplied by the
21 program rate or, in the case of a transferred credit, such lesser
22 amount paid for the credit.

23 (7) Credits expire unless claimed within twenty years of
24 the underlying payment or, in the case of credits held by the
25 original individual payor, five years from the later of the date of

1 death of the payor or, if applicable, the surviving joint filer.

2 (8) The Tax Commissioner may adopt and promulgate rules
3 and regulations to carry out this section.

4 Sec. 2. Section 39-2703, Revised Statutes Cumulative
5 Supplement, 2012, is amended to read:

6 39-2703 (1) The State Highway Capital Improvement Fund is
7 created. The fund shall consist of money credited to the fund
8 pursuant to section 77-27,132 and section 1 of this act and any other
9 money as determined by the Legislature.

10 (2) The department may create or direct the creation of
11 accounts within the fund as the department determines to be
12 appropriate and useful in administering the fund.

13 (3) Any money in the fund available for investment shall
14 be invested by the state investment officer pursuant to the Nebraska
15 Capital Expansion Act and the Nebraska State Funds Investment Act.
16 Investment earnings from investment of money in the fund shall be
17 credited to the fund.

18 Sec. 3. If any section in this act or any part of any
19 section is declared invalid or unconstitutional, the declaration
20 shall not affect the validity or constitutionality of the remaining
21 portions.

22 Sec. 4. Original section 39-2703, Revised Statutes
23 Cumulative Supplement, 2012, is repealed.