

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 75

Introduced by Schumacher, 22.

Read first time January 08, 2015

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 39-2703, 77-2701, and 77-2715.07, Revised Statutes Cumulative
- 3 Supplement, 2014; to adopt the Taxpayer Investment Program; to
- 4 harmonize provisions; to provide severability; and to repeal the
- 5 original sections.
- 6 Be it enacted by the people of the State of Nebraska,

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

4 (2) Any natural person may at the time of filing his or her Nebraska
5 income tax return pay to the state an advance tax payment not to exceed
6 ten thousand dollars per year. Each such payment made shall be known as a
7 tax investment and shall be identified on the books and records of the
8 Department of Revenue. Commencing on the earliest of five calendar years
9 after the making of a tax investment, the taxpayer becoming sixty-two
10 years of age, or the death of the taxpayer, the taxpayer making the tax
11 investment shall be entitled to claim a tax credit under section
12 77-2715.07 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 sum of (a)
15 the lesser of the Treasury Yield Curve Rate, commonly referred to as
16 Constant Maturity Treasury rate, for a ten-year maturity United States
17 Government note on the last business day of the month in which the tax
18 investment was made or five percent per annum, times the number of years,
19 or fraction thereof, between the making of the tax investment and the
20 claiming of the tax credit, plus (b) an inflation adjustment calculated
21 by dividing the United States Department of Labor, Bureau of Labor
22 Statistics, Consumer Price Index for All Urban Consumers, United States
23 City Average, All Items factor, on June 30 of the year the credit is
24 claimed by the Consumer Price Index for All Urban Consumers, United
25 States City Average, All Items factor, for the month in which the tax
26 investment was made. If the Consumer Price Index for All Urban Consumers
27 is no longer published, then the factor shall be determined by use of an
28 index having similar function.

29 (4) The sums paid to the state pursuant to the program shall become
30 the property of the state. The sums shall be credited to the State
31 Highway Capital Improvement Fund. The tax credits to which the taxpayer

1 may be entitled to claim as a result thereof are not a debt or general
2 obligation of the state. The tax credits (a) are not refundable, (b) are
3 not taxable as state income, (c) have recourse only as provided in
4 section 77-2715.07 for taxes otherwise coming due from the taxpayer or
5 taxpayer's assignee subsequent to the time when the claim for the tax
6 credit can be made pursuant to subsection (2) of this section, (d) may be
7 claimed only as a credit against the taxpayer's liability for taxes in
8 years subsequent to the time of commencement provided for in subsection
9 (2) of this section, and (e) except as provided in this section, may not
10 be transferred.

11 (5) Unless otherwise agreed between taxpayers, credits arising out
12 of payments made in a year in which a joint individual tax return was
13 filed shall be held as joint tenants with rights of survivorship between
14 such joint filers. A taxpayer's tax credits remaining unclaimed upon the
15 death of the taxpayer entitled to claim the credit shall be used under
16 section 77-2715.07 for taxes due from the decedent with the balance, if
17 any, first reducing any inheritance tax arising as a result of the death
18 of such decedent, then applied to reimburse the state for any aid or
19 assistance paid by the state to or on behalf of the decedent under
20 Chapter 68, and then, upon payment to the state of a transfer fee equal
21 to ten percent of the credit, may be transferred to the heirs or devisees
22 of the decedent pursuant to the laws of testacy or intestate succession.
23 In cases not involving a transfer from a decedent, upon payment of a
24 transaction transfer fee to the state of ten percent of the credit
25 transferred and the cancellation of the corresponding credit amount
26 arising under subdivision (3)(a) of this section, a credit, not to exceed
27 the underlying tax investment adjusted for inflation pursuant to
28 subdivision (3)(b) of this section, may be transferred. In such case, the
29 transferee shall be entitled to the credit transferred in the same manner
30 as if the taxpayer were the original depositor. The credits shall not be
31 considered a security subject to the Securities Act of Nebraska.

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

6 (7) Credits expire unless claimed within twenty years after the
7 underlying payment or, in the case of credits held by the original payor,
8 five years from the later of the date of death of the payor, or if
9 applicable, the surviving joint filer.

10 (8) No advance tax payments shall be made during any calendar year
11 if, on the preceding December 31, the outstanding tax credits under this
12 section exceed twenty percent of the balance of the Cash Reserve Fund as
13 of such date.

14 (9) The Tax Commissioner may adopt and promulgate rules and
15 regulations to carry out this section.

16 Sec. 2. Section 39-2703, Revised Statutes Cumulative Supplement,
17 2014, is amended to read:

18 39-2703 (1) The State Highway Capital Improvement Fund is created.
19 The fund shall consist of money credited to the fund pursuant to section
20 77-27,132 and section 1 of this act and any other money as determined by
21 the Legislature.

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

25 (3) Any money in the fund available for investment shall be invested
26 by the state investment officer pursuant to the Nebraska Capital
27 Expansion Act and the Nebraska State Funds Investment Act. Investment
28 earnings from investment of money in the fund shall be credited to the
29 fund.

30 Sec. 3. Section 77-2701, Revised Statutes Cumulative Supplement,
31 2014, is amended to read:

1 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to 77-27,236
2 and section 1 of this act shall be known and may be cited as the Nebraska
3 Revenue Act of 1967.

4 Sec. 4. Section 77-2715.07, Revised Statutes Cumulative Supplement,
5 2014, is amended to read:

6 77-2715.07 (1) There shall be allowed to qualified resident
7 individuals as a nonrefundable credit against the income tax imposed by
8 the Nebraska Revenue Act of 1967:

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

11 (b) A credit for taxes paid to another state as provided in section
12 77-2730.

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

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

19 (b) For returns filed reporting federal adjusted gross income of
20 twenty-nine thousand dollars or less, a refundable credit equal to a
21 percentage of the federal credit allowable under section 21 of the
22 Internal Revenue Code of 1986, as amended, whether or not the federal
23 credit was limited by the federal tax liability. The percentage of the
24 federal credit shall be one hundred percent for incomes not greater than
25 twenty-two thousand dollars, and the percentage shall be reduced by ten
26 percent for each one thousand dollars, or fraction thereof, by which the
27 reported federal adjusted gross income exceeds twenty-two thousand
28 dollars;

29 (c) A refundable credit as provided in section 77-5209.01 for
30 individuals who qualify for an income tax credit as a qualified beginning
31 farmer or livestock producer under the Beginning Farmer Tax Credit Act

1 for all taxable years beginning or deemed to begin on or after January 1,
2 2006, under the Internal Revenue Code of 1986, as amended;

3 (d) A refundable credit for individuals who qualify for an income
4 tax credit under the Angel Investment Tax Credit Act, the Nebraska
5 Advantage Microenterprise Tax Credit Act, or the Nebraska Advantage
6 Research and Development Act; and

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

10 (3) There shall be allowed to all individuals as a nonrefundable
11 credit against the income tax imposed by the Nebraska Revenue Act of
12 1967:

13 (a) A credit for personal exemptions allowed under section
14 77-2716.01;

15 (b) A credit for contributions to certified community betterment
16 programs as provided in the Community Development Assistance Act. Each
17 partner, each shareholder of an electing subchapter S corporation, each
18 beneficiary of an estate or trust, or each member of a limited liability
19 company shall report his or her share of the credit in the same manner
20 and proportion as he or she reports the partnership, subchapter S
21 corporation, estate, trust, or limited liability company income;

22 (c) A credit for investment in a biodiesel facility as provided in
23 section 77-27,236;

24 (d) A credit as provided in the New Markets Job Growth Investment
25 Act;~~and~~

26 (e) A credit as provided in the Nebraska Job Creation and Mainstreet
27 Revitalization Act; and -

28 (f) A credit as provided in the Taxpayer Investment Program pursuant
29 to section 1 of this act.

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

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

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

6 (c) A refundable credit for individuals who qualify for an income
7 tax credit as an owner of agricultural assets under the Beginning Farmer
8 Tax Credit Act for all taxable years beginning or deemed to begin on or
9 after January 1, 2009, under the Internal Revenue Code of 1986, as
10 amended. The credit allowed for each partner, shareholder, member, or
11 beneficiary of a partnership, corporation, limited liability company, or
12 estate or trust qualifying for an income tax credit as an owner of
13 agricultural assets under the Beginning Farmer Tax Credit Act shall be
14 equal to the partner's, shareholder's, member's, or beneficiary's portion
15 of the amount of tax credit distributed pursuant to subsection (4) of
16 section 77-5211.

17 (5)(a) For all taxable years beginning on or after January 1, 2007,
18 and before January 1, 2009, under the Internal Revenue Code of 1986, as
19 amended, there shall be allowed to each partner, shareholder, member, or
20 beneficiary of a partnership, subchapter S corporation, limited liability
21 company, or estate or trust a nonrefundable credit against the income tax
22 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of 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.

26 (b) For all taxable years beginning on or after January 1, 2009,
27 under the Internal Revenue Code of 1986, as amended, there shall be
28 allowed to each partner, shareholder, member, or beneficiary of a
29 partnership, subchapter S corporation, limited liability company, or
30 estate or trust a nonrefundable credit against the income tax imposed by
31 the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's,

1 member's, or beneficiary's portion of the amount of franchise tax paid to
2 the state under sections 77-3801 to 77-3807 by a financial institution.

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

9 Sec. 5. If any section in this act or any part of any section is
10 declared invalid or unconstitutional, the declaration shall not affect
11 the validity or constitutionality of the remaining portions.

12 Sec. 6. Original sections 39-2703, 77-2701, and 77-2715.07, Revised
13 Statutes Cumulative Supplement, 2014, are repealed.