

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 456

FINAL READING

(SECOND)

Introduced by White, 8

Read first time January 16, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section
2 77-3807, Reissue Revised Statutes of Nebraska, and
3 sections 77-2715.07 and 77-2716, Revised Statutes
4 Cumulative Supplement, 2006; to provide an income tax
5 credit for franchise taxes paid by certain financial
6 institutions; and to repeal the original sections.
7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2715.07, Revised Statutes
2 Cumulative Supplement, 2006, is amended to read:

3 77-2715.07 (1) There shall be allowed to qualified
4 resident individuals as a nonrefundable credit against the income
5 tax imposed by the Nebraska Revenue Act of 1967:

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

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

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

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

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

1 thousand dollars, or fraction thereof, by which the reported
2 federal adjusted gross income exceeds twenty-two thousand dollars;

3 (c) A refundable credit for individuals who qualify for
4 an income tax credit as an owner of agricultural assets under the
5 Beginning Farmer Tax Credit Act for all taxable years beginning or
6 deemed to begin on or after January 1, 2001, under the Internal
7 Revenue Code of 1986, as amended; and a refundable credit as
8 provided in section 77-5209.01 for individuals who qualify for an
9 income tax credit as a qualified beginning farmer or livestock
10 producer under the Beginning Farmer Tax Credit Act for all taxable
11 years beginning or deemed to begin on or after January 1, 2006,
12 under the Internal Revenue Code of 1986, as amended;

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

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

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

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

25 (b) A credit for contributions to certified community

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

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

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

12 (b) A credit to all estates and trusts for contributions
13 to certified community betterment programs as provided in the
14 Community Development Assistance Act.

15 (5) There shall be allowed to all business firms as a
16 credit against the income tax imposed by the Nebraska Revenue Act
17 of 1967 a credit as provided in section 77-27,222.

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

1 amount of franchise tax paid to the state under sections 77-3801 to
2 77-3807 by a financial institution.

3 (b) For all taxable years beginning on or after January
4 1, 2009, under the Internal Revenue Code of 1986, as amended,
5 there shall be allowed to each partner, shareholder, member, or
6 beneficiary of a partnership, subchapter S corporation, limited
7 liability company, or estate or trust a nonrefundable credit
8 against the income tax imposed by the Nebraska Revenue Act of 1967
9 equal to the partner's, shareholder's, member's, or beneficiary's
10 portion of the amount of franchise tax paid to the state under
11 sections 77-3801 to 77-3807 by a financial institution.

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

19 Sec. 2. Section 77-2716, Revised Statutes Cumulative
20 Supplement, 2006, is amended to read:

21 77-2716 (1) The following adjustments to federal adjusted
22 gross income or, for corporations and fiduciaries, federal taxable
23 income shall be made for interest or dividends received:

24 (a) There shall be subtracted interest or dividends
25 received by the owner of obligations of the United States and its

1 territories and possessions or of any authority, commission, or
2 instrumentality of the United States to the extent includable in
3 gross income for federal income tax purposes but exempt from state
4 income taxes under the laws of the United States;

5 (b) There shall be subtracted that portion of the
6 total dividends and other income received from a regulated
7 investment company which is attributable to obligations described
8 in subdivision (a) of this subsection as reported to the recipient
9 by the regulated investment company;

10 (c) There shall be added interest or dividends received
11 by the owner of obligations of the District of Columbia, other
12 states of the United States, or their political subdivisions,
13 authorities, commissions, or instrumentalities to the extent
14 excluded in the computation of gross income for federal income
15 tax purposes except that such interest or dividends shall not be
16 added if received by a corporation which is a regulated investment
17 company;

18 (d) There shall be added that portion of the total
19 dividends and other income received from a regulated investment
20 company which is attributable to obligations described in
21 subdivision (c) of this subsection and excluded for federal
22 income tax purposes as reported to the recipient by the regulated
23 investment company; and

24 (e)(i) Any amount subtracted under this subsection shall
25 be reduced by any interest on indebtedness incurred to carry the

1 obligations or securities described in this subsection or the
2 investment in the regulated investment company and by any expenses
3 incurred in the production of interest or dividend income described
4 in this subsection to the extent that such expenses, including
5 amortizable bond premiums, are deductible in determining federal
6 taxable income.

7 (ii) Any amount added under this subsection shall be
8 reduced by any expenses incurred in the production of such income
9 to the extent disallowed in the computation of federal taxable
10 income.

11 (2) There shall be allowed a net operating loss derived
12 from or connected with Nebraska sources computed under rules
13 and regulations adopted and promulgated by the Tax Commissioner
14 consistent, to the extent possible under the Nebraska Revenue
15 Act of 1967, with the laws of the United States. For a resident
16 individual, estate, or trust, the net operating loss computed
17 on the federal income tax return shall be adjusted by the
18 modifications contained in this section. For a nonresident
19 individual, estate, or trust or for a partial-year resident
20 individual, the net operating loss computed on the federal return
21 shall be adjusted by the modifications contained in this section
22 and any carryovers or carrybacks shall be limited to the portion of
23 the loss derived from or connected with Nebraska sources.

24 (3) There shall be subtracted from federal adjusted gross
25 income for all taxable years beginning on or after January 1, 1987,

1 the amount of any state income tax refund to the extent such refund
2 was deducted under the Internal Revenue Code, was not allowed in
3 the computation of the tax due under the Nebraska Revenue Act of
4 1967, and is included in federal adjusted gross income.

5 (4) Federal adjusted gross income, or, for a fiduciary,
6 federal taxable income shall be modified to exclude the portion of
7 the income or loss received from a small business corporation with
8 an election in effect under subchapter S of the Internal Revenue
9 Code or from a limited liability company organized pursuant to the
10 Limited Liability Company Act that is not derived from or connected
11 with Nebraska sources as determined in section 77-2734.01.

12 (5) There shall be subtracted from federal adjusted gross
13 income or, for corporations and fiduciaries, federal taxable income
14 dividends received or deemed to be received from corporations which
15 are not subject to the Internal Revenue Code.

16 (6) There shall be subtracted from federal taxable income
17 a portion of the income earned by a corporation subject to the
18 Internal Revenue Code of 1986 that is actually taxed by a foreign
19 country or one of its political subdivisions at a rate in excess
20 of the maximum federal tax rate for corporations. The taxpayer may
21 make the computation for each foreign country or for groups of
22 foreign countries. The portion of the taxes that may be deducted
23 shall be computed in the following manner:

24 (a) The amount of federal taxable income from operations
25 within a foreign taxing jurisdiction shall be reduced by the amount

1 of taxes actually paid to the foreign jurisdiction that are not
2 deductible solely because the foreign tax credit was elected on the
3 federal income tax return;

4 (b) The amount of after-tax income shall be divided by
5 one minus the maximum tax rate for corporations in the Internal
6 Revenue Code; and

7 (c) The result of the calculation in subdivision (b) of
8 this subsection shall be subtracted from the amount of federal
9 taxable income used in subdivision (a) of this subsection. The
10 result of such calculation, if greater than zero, shall be
11 subtracted from federal taxable income.

12 (7) Federal adjusted gross income shall be modified to
13 exclude any amount repaid by the taxpayer for which a reduction
14 in federal tax is allowed under section 1341(a)(5) of the Internal
15 Revenue Code.

16 (8)(a) Federal adjusted gross income or, for corporations
17 and fiduciaries, federal taxable income shall be reduced, to the
18 extent included, by income from interest, earnings, and state
19 contributions received from the Nebraska educational savings plan
20 trust created in sections 85-1801 to 85-1814.

21 (b) Federal adjusted gross income or, for corporations
22 and fiduciaries, federal taxable income shall be reduced, to the
23 extent not deducted for federal income tax purposes, by the amount
24 of any gift, grant, or donation made to the Nebraska educational
25 savings plan trust for deposit in the endowment fund of the trust.

1 (c) Federal adjusted gross income or, for corporations
2 and fiduciaries, federal taxable income shall be reduced by any
3 contributions as a participant in the Nebraska educational savings
4 plan trust, to the extent not deducted for federal income tax
5 purposes, but not to exceed five hundred dollars per married filing
6 separate return or one thousand dollars for any other return.

7 (d) Federal adjusted gross income or, for corporations
8 and fiduciaries, federal taxable income shall be increased by
9 the amount resulting from the cancellation of a participation
10 agreement refunded to the taxpayer as a participant in the Nebraska
11 educational savings plan trust to the extent previously deducted as
12 a contribution to the trust.

13 (9) (a) For income tax returns filed after September 10,
14 2001, for taxable years beginning or deemed to begin before January
15 1, 2006, under the Internal Revenue Code of 1986, as amended,
16 federal adjusted gross income or, for corporations and fiduciaries,
17 federal taxable income shall be increased by eighty-five percent
18 of any amount of any federal bonus depreciation received under
19 the federal Job Creation and Worker Assistance Act of 2002 or the
20 federal Jobs and Growth Tax Act of 2003, under section 168(k) or
21 section 1400L of the Internal Revenue Code of 1986, as amended,
22 for assets placed in service after September 10, 2001, and before
23 December 31, 2005.

24 (b) For a partnership, limited liability company,
25 cooperative, including any cooperative exempt from income taxes

1 under section 521 of the Internal Revenue Code of 1986, as amended,
2 subchapter S corporation, or joint venture, the increase shall be
3 distributed to the partners, members, shareholders, patrons, or
4 beneficiaries in the same manner as income is distributed for use
5 against their income tax liabilities.

6 (c) For a corporation with a unitary business having
7 activity both inside and outside the state, the increase shall be
8 apportioned to Nebraska in the same manner as income is apportioned
9 to the state by section 77-2734.05.

10 (d) The amount of bonus depreciation added to federal
11 adjusted gross income or, for corporations and fiduciaries, federal
12 taxable income by this subsection shall be subtracted in a
13 later taxable year. Twenty percent of the total amount of bonus
14 depreciation added back by this subsection for tax years beginning
15 or deemed to begin before January 1, 2003, under the Internal
16 Revenue Code of 1986, as amended, may be subtracted in the first
17 taxable year beginning or deemed to begin on or after January 1,
18 2005, under the Internal Revenue Code of 1986, as amended, and
19 twenty percent in each of the next four following taxable years.
20 Twenty percent of the total amount of bonus depreciation added back
21 by this subsection for tax years beginning or deemed to begin on or
22 after January 1, 2003, may be subtracted in the first taxable year
23 beginning or deemed to begin on or after January 1, 2006, under the
24 Internal Revenue Code of 1986, as amended, and twenty percent in
25 each of the next four following taxable years.

1 (10) For taxable years beginning or deemed to begin on
2 or after January 1, 2003, and before January 1, 2006, under the
3 Internal Revenue Code of 1986, as amended, federal adjusted gross
4 income or, for corporations and fiduciaries, federal taxable income
5 shall be increased by the amount of any capital investment that is
6 expensed under section 179 of the Internal Revenue Code of 1986,
7 as amended, that is in excess of twenty-five thousand dollars that
8 is allowed under the federal Jobs and Growth Tax Act of 2003.
9 Twenty percent of the total amount of expensing added back by
10 this subsection for tax years beginning or deemed to begin on or
11 after January 1, 2003, may be subtracted in the first taxable year
12 beginning or deemed to begin on or after January 1, 2006, under the
13 Internal Revenue Code of 1986, as amended, and twenty percent in
14 each of the next four following tax years.

15 (11)(a) Federal adjusted gross income shall be reduced
16 by contributions, up to two thousand dollars per married filing
17 jointly return or one thousand dollars for any other return, and
18 any investment earnings made as a participant in the Nebraska
19 long-term care savings plan under the Long-Term Care Savings Plan
20 Act, to the extent not deducted for federal income tax purposes.

21 (b) Federal adjusted gross income shall be increased by
22 the withdrawals made as a participant in the Nebraska long-term
23 care savings plan under the act by a person who is not a qualified
24 individual or for any reason other than transfer of funds to a
25 spouse, long-term care expenses, long-term care insurance premiums,

1 or death of the participant, including withdrawals made by reason
2 of cancellation of the participation agreement or termination of
3 the plan, to the extent previously deducted as a contribution or as
4 investment earnings.

5 (12) There shall be added to federal adjusted gross
6 income for individuals, estates, and trusts any amount taken as
7 a credit for franchise tax paid by a financial institution under
8 sections 77-3801 to 77-3807 as allowed by subsection (6) of section
9 77-2715.07.

10 Sec. 3. Section 77-3807, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 77-3807 (1) The Tax Commissioner shall prescribe the
13 necessary forms and the supporting documentation to be filed for
14 the reporting and payment of the tax imposed by section 77-3802 and
15 for the calculation of credits allowable under subsection (6) of
16 section 77-2715.07.

17 (2) The Tax Commissioner shall adopt and promulgate rules
18 and regulations to carry out sections 77-3801 to 77-3807.

19 (3) The Tax Commissioner may use electronic funds
20 transfers to collect the tax imposed by section 77-3802 or to pay
21 any refunds allowed under section 77-3806. The use of electronic
22 funds transfers shall not change the rights of any party from the
23 rights such party would have if a different method of payment is
24 used.

25 Sec. 4. Original section 77-3807, Reissue Revised

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- 1 Statutes of Nebraska, and sections 77-2715.07 and 77-2716, Revised
- 2 Statutes Cumulative Supplement, 2006, are repealed.