

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 177

Introduced By: Janssen, 15
Read first time: January 9, 2007
Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 77-5903, 77-5905, and 77-5906, Revised Statutes Cumulative
3 Supplement, 2006; to change provisions relating to the
4 Nebraska Advantage Microenterprise Tax Credit Act; to
5 provide an operative date; and to repeal the original
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-5903, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 77-5903. For purposes of the Nebraska Advantage
4 Microenterprise Tax Credit Act:

5 (1) Actively engaged in the operation of a microbusiness
6 means personal involvement on a continuous basis in the daily
7 management and operation of the business;

8 (2) Distressed area means a municipality, county,
9 unincorporated area within a county, or census tract in Nebraska that
10 has (a) an unemployment rate which exceeds the statewide average
11 unemployment rate, (b) a per capita income below the statewide average
12 per capita income, or (c) had a population decrease between the two
13 most recent federal decennial censuses;

14 (3) Equivalent employees means the number of employees
15 computed by dividing the total hours paid in a year by the product of
16 forty times the number of weeks in a year;

17 (4) Microbusiness means any business employing five or fewer
18 equivalent employees. If the microbusiness is a farm or livestock
19 operation, the farmer or livestock producer, in addition to meeting
20 the qualifications under the Nebraska Advantage Microenterprise Tax
21 Credit Act, shall also meet the qualifications of a beginning farmer
22 or livestock producer as set forth in section 77-5209;

23 (5) New employment means the amount by which the total
24 compensation paid during the tax year to employees who are Nebraska
25 residents exceeds the total compensation paid to employees who are
26 Nebraska residents in the tax year prior to application;

27 (6) New investment means the increase during the tax year

1 over the year prior to the application in the applicant's (a) value
2 of purchased inventories sold or used during the year, (b) purchases
3 of buildings and depreciable personal property located in Nebraska
4 and expenditures on repairs and maintenance on property located in
5 Nebraska, not including vehicles required to be registered for
6 operation on the roads and highways of this state, during the tax
7 year, and (c) expenditures on advertising, travel, supplies, legal
8 and professional services, and office expenses. If the buildings or
9 depreciable personal property is leased, the amount of new investment
10 shall be the increase in average net annual rents multiplied by the
11 number of years of the lease for which the taxpayer is bound, not to
12 exceed ten years;

13 (7) Related persons means (a) any corporation, partnership,
14 limited liability corporation, cooperative, including cooperatives
15 exempt under section 521 of the Internal Revenue Code of 1986, as
16 amended, or joint venture which is or would otherwise be a member of
17 the same unitary group, if incorporated, or any person who is
18 considered to be a related person under either section 267(b) and (c)
19 or section 707(b) of the Internal Revenue Code of 1986, as amended,
20 and (b) any individual who is a spouse, parent if the taxpayer is a
21 minor, or minor son or daughter of the taxpayer; and

22 (8) Taxpayer means any person subject to the income tax
23 imposed by the Nebraska Revenue Act of 1967, any corporation,
24 partnership, limited liability company, cooperative, including a
25 cooperative exempt under section 521 of the Internal Revenue Code of
26 1986, as amended, or joint venture that is or would otherwise be a
27 member of the same unitary group, if incorporated, which is, or whose

1 partners, members, or owners representing an ownership interest of at
2 least ninety percent of such entity are, subject to such tax, and any
3 other partnership, limited liability company, subchapter S
4 corporation, cooperative, including a cooperative exempt under section
5 521 of the Internal Revenue Code of 1986, as amended, or joint venture
6 when the partners, shareholders, or members representing an ownership
7 interest of at least ninety percent of such entity are subject to such
8 tax.

9 Sec. 2. Section 77-5905, Revised Statutes Cumulative
10 Supplement, 2006, is amended to read:

11 77-5905. (1) If the Department of Revenue determines that an
12 application meets the requirements of section 77-5904 and that the
13 investment or employment is eligible for the credit and (a) the
14 applicant is actively engaged in the operation of the microbusiness or
15 will be actively engaged in the operation upon its establishment, (b)
16 the majority of the assets of the microbusiness are located in a
17 distressed area or will be upon its establishment, (c) the applicant
18 will make new investment or employment in the microbusiness, and (d)
19 the new investment or employment will create new income or jobs in the
20 distressed area, the department shall approve the application and
21 authorize tentative tax credits to the applicant within the limits set
22 forth in this section and certify the amount of tentative tax credits
23 approved for the applicant. Applications for tax credits shall be
24 considered in the order in which they are received.

25 (2) The department may approve applications ~~up to the~~
26 ~~adjusted limit for~~ each calendar year beginning January 1, 2006,
27 through December 31, 2010. ~~After applications totaling the adjusted~~

1 ~~limit have been approved for a calendar year, no further applications~~
2 ~~shall be approved for that year. The adjusted limit in a given year~~
3 ~~is two million dollars plus tentative tax credits that were not~~
4 ~~granted by the end of the preceding year. Tax credits shall not be~~
5 allowed for a taxpayer receiving benefits under the Employment and
6 Investment Growth Act, the Nebraska Advantage Act, or the Nebraska
7 Advantage Rural Development Act.

8 Sec. 3. Section 77-5906, Revised Statutes Cumulative
9 Supplement, 2006, is amended to read:

10 77-5906. (1) Taxpayers shall be entitled to refundable tax
11 credits equal to twenty percent of the taxpayer's new investment or
12 employment in the microbusiness during the tax year not to exceed the
13 amount of tentative tax credits approved by the department under
14 section 77-5905. The taxpayer shall claim the tax credit by filing a
15 form developed by the Tax Commissioner and attaching the tentative tax
16 credit certification granted by the department. Tentative tax credits
17 expire after the end of the tax year following the year the tentative
18 tax credit was certified. The total lifetime tax credits claimed by
19 any one taxpayer and any related person under the Nebraska Advantage
20 Microenterprise Tax Credit Act shall be limited to ten thousand
21 dollars.

22 (2) The refundable tax credit does not apply to
23 compensation to an employee in excess of one hundred fifty percent of
24 the most recent calculation of median earnings in Nebraska, as
25 determined by the Department of Labor. The refundable tax credit does
26 apply to health insurance benefits provided to an employee.

27 Sec. 4. This act becomes operative on January 1, 2008.

1 Sec. 5. Original sections 77-5903, 77-5905, and 77-5906,
2 Revised Statutes Cumulative Supplement, 2006, are repealed.