

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 325**

Introduced by Speaker Flood, 19; at the request of the Governor;

Read first time January 11, 2007

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
2 77-3806, Reissue Revised Statutes of Nebraska, and  
3 sections 77-908, 77-2701, 77-2715.07, 77-2717, and  
4 77-2734.03, Revised Statutes Cumulative Supplement, 2006;  
5 to repeal the business child care credits; to harmonize  
6 provisions; to repeal the original sections; and to  
7 outright repeal section 77-27,222, Revised Statutes  
8 Cumulative Supplement, 2006.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 77-908, Revised Statutes Cumulative  
2 Supplement, 2006, is amended to read:

3           77-908 Every insurance company organized under the stock,  
4 mutual, assessment, or reciprocal plan, except fraternal benefit  
5 societies, which is transacting business in this state shall, on  
6 or before March 1 of each year, pay a tax to the director of one  
7 percent of the gross amount of direct writing premiums received by  
8 it during the preceding calendar year for business done in this  
9 state, except that (1) for group sickness and accident insurance  
10 the rate of such tax shall be five-tenths of one percent, (2) for  
11 property and casualty insurance, excluding individual sickness and  
12 accident insurance, the rate of such tax shall be one percent, and  
13 (3) for capitation payments made in accordance with the Medical  
14 Assistance Act, the rate of tax shall be five percent. The taxable  
15 premiums shall include premiums paid on the lives of persons  
16 residing in this state and premiums paid for risks located in  
17 this state whether the insurance was written in this state or not,  
18 including that portion of a group premium paid which represents the  
19 premium for insurance on Nebraska residents or risks located in  
20 Nebraska included within the group when the number of lives in the  
21 group exceeds five hundred. The tax shall also apply to premiums  
22 received by domestic companies for insurance written on individuals  
23 residing outside this state or risks located outside this state if  
24 no comparable tax is paid by the direct writing domestic company  
25 to any other appropriate taxing authority. Companies whose scheme

1 of operation contemplates the return of a portion of premiums  
2 to policyholders, without such policyholders being claimants under  
3 the terms of their policies, may deduct such return premiums  
4 or dividends from their gross premiums for the purpose of tax  
5 calculations. Any such insurance company shall receive a credit on  
6 the tax imposed as provided in the Community Development Assistance  
7 Act, and section ~~77-27,222~~.

8           Sec. 2. Section 77-2701, Revised Statutes Cumulative  
9 Supplement, 2006, is amended to read:

10           77-2701 Sections 77-2701 to 77-27,135.01, ~~77-27,222~~, and  
11 77-27,228 to 77-27,235 shall be known and may be cited as the  
12 Nebraska Revenue Act of 1967.

13           Sec. 3. Section 77-2715.07, Revised Statutes Cumulative  
14 Supplement, 2006, is amended to read:

15           77-2715.07 (1) There shall be allowed to qualified  
16 resident individuals as a nonrefundable credit against the income  
17 tax imposed by the Nebraska Revenue Act of 1967:

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

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

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

25           (a) For returns filed reporting federal adjusted

1 gross incomes of greater than twenty-nine thousand dollars, a  
2 nonrefundable credit equal to twenty-five percent of the federal  
3 credit allowed under section 21 of the Internal Revenue Code of  
4 1986, as amended;

5 (b) For returns filed reporting federal adjusted gross  
6 income of twenty-nine thousand dollars or less, a refundable credit  
7 equal to a percentage of the federal credit allowable under section  
8 21 of the Internal Revenue Code of 1986, as amended, whether or  
9 not the federal credit was limited by the federal tax liability.  
10 The percentage of the federal credit shall be one hundred percent  
11 for incomes not greater than twenty-two thousand dollars, and  
12 the percentage shall be reduced by ten percent for each one  
13 thousand dollars, or fraction thereof, by which the reported  
14 federal adjusted gross income exceeds twenty-two thousand dollars;

15 (c) A refundable credit for individuals who qualify for  
16 an income tax credit as an owner of agricultural assets under the  
17 Beginning Farmer Tax Credit Act for all taxable years beginning or  
18 deemed to begin on or after January 1, 2001, under the Internal  
19 Revenue Code of 1986, as amended; and a refundable credit as  
20 provided in section 77-5209.01 for individuals who qualify for an  
21 income tax credit as a qualified beginning farmer or livestock  
22 producer under the Beginning Farmer Tax Credit Act for all taxable  
23 years beginning or deemed to begin on or after January 1, 2006,  
24 under the Internal Revenue Code of 1986, as amended;

25 (d) A refundable credit for individuals who qualify for

1 an income tax credit under the Nebraska Advantage Microenterprise  
2 Tax Credit Act or the Nebraska Advantage Research and Development  
3 Act; and

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

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

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

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

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

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

24 (b) A credit to all estates and trusts for contributions  
25 to certified community betterment programs as provided in the

1 Community Development Assistance Act.

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

5 Sec. 4. Section 77-2717, Revised Statutes Cumulative  
6 Supplement, 2006, is amended to read:

7 77-2717 (1)(a) The tax imposed on all resident estates  
8 and trusts shall be a percentage of the federal taxable income  
9 of such estates and trusts as modified in section 77-2716, plus  
10 a percentage of the federal alternative minimum tax and the  
11 federal tax on premature or lump-sum distributions from qualified  
12 retirement plans. The additional taxes shall be recomputed by (i)  
13 substituting Nebraska taxable income for federal taxable income,  
14 (ii) calculating what the federal alternative minimum tax would  
15 be on Nebraska taxable income and adjusting such calculations for  
16 any items which are reflected differently in the determination of  
17 federal taxable income, and (iii) applying Nebraska rates to the  
18 result. The federal credit for prior year minimum tax, after the  
19 recomputations required by the Nebraska Revenue Act of 1967, and  
20 the credits provided in the Nebraska Advantage Microenterprise Tax  
21 Credit Act, and the Nebraska Advantage Research and Development  
22 Act, ~~and section 77-27,222~~ shall be allowed as a reduction in the  
23 income tax due. A refundable income tax credit shall be allowed  
24 for all resident estates and trusts under the Nebraska Advantage  
25 Microenterprise Tax Credit Act and the Nebraska Advantage Research

1 and Development Act.

2 (b) The tax imposed on all nonresident estates and trusts  
3 shall be the portion of the tax imposed on resident estates and  
4 trusts which is attributable to the income derived from sources  
5 within this state. The tax which is attributable to income derived  
6 from sources within this state shall be determined by multiplying  
7 the liability to this state for a resident estate or trust with  
8 the same total income by a fraction, the numerator of which is  
9 the nonresident estate's or trust's Nebraska income as determined  
10 by sections 77-2724 and 77-2725 and the denominator of which is  
11 its total federal income after first adjusting each by the amounts  
12 provided in section 77-2716. The federal credit for prior year  
13 minimum tax, after the recomputations required by the Nebraska  
14 Revenue Act of 1967, reduced by the percentage of the total income  
15 which is attributable to income from sources outside this state,  
16 and the credits provided in the Nebraska Advantage Microenterprise  
17 Tax Credit Act, and the Nebraska Advantage Research and Development  
18 Act, ~~and section 77-27,222~~ shall be allowed as a reduction in the  
19 income tax due. A refundable income tax credit shall be allowed  
20 for all nonresident estates and trusts under the Nebraska Advantage  
21 Microenterprise Tax Credit Act and the Nebraska Advantage Research  
22 and Development Act.

23 (2) In all instances wherein a fiduciary income tax  
24 return is required under the provisions of the Internal Revenue  
25 Code, a Nebraska fiduciary return shall be filed, except that a

1 fiduciary return shall not be required to be filed regarding a  
2 simple trust if all of the trust's beneficiaries are residents of  
3 the State of Nebraska, all of the trust's income is derived from  
4 sources in this state, and the trust has no federal tax liability.  
5 The fiduciary shall be responsible for making the return for the  
6 estate or trust for which he or she acts, whether the income be  
7 taxable to the estate or trust or to the beneficiaries thereof.  
8 The fiduciary shall include in the return a statement of each  
9 beneficiary's distributive share of net income when such income is  
10 taxable to such beneficiaries.

11 (3) The beneficiaries of such estate or trust who are  
12 residents of this state shall include in their income their  
13 proportionate share of such estate's or trust's federal income and  
14 shall reduce their Nebraska tax liability by their proportionate  
15 share of the credits as provided in the Nebraska Advantage  
16 Microenterprise Tax Credit Act, and the Nebraska Advantage Research  
17 and Development Act, and ~~section 77-27,222~~. There shall be  
18 allowed to a beneficiary a refundable income tax credit under the  
19 Beginning Farmer Tax Credit Act for all taxable years beginning or  
20 deemed to begin on or after January 1, 2001, under the Internal  
21 Revenue Code of 1986, as amended.

22 (4) If any beneficiary of such estate or trust is a  
23 nonresident during any part of the estate's or trust's taxable  
24 year, he or she shall file a Nebraska income tax return which shall  
25 include (a) in Nebraska adjusted gross income that portion of the



1 estate's or trust's Nebraska income, as determined under sections  
2 77-2724 and 77-2725, allocable to his or her interest in the estate  
3 or trust and (b) a reduction of the Nebraska tax liability by  
4 his or her proportionate share of the credits as provided in the  
5 Nebraska Advantage Microenterprise Tax Credit Act~~7~~ and the Nebraska  
6 Advantage Research and Development Act~~7~~ and ~~section 77-27,222~~ and  
7 shall execute and forward to the fiduciary, on or before the  
8 original due date of the Nebraska fiduciary return, an agreement  
9 which states that he or she will file a Nebraska income tax return  
10 and pay income tax on all income derived from or connected with  
11 sources in this state, and such agreement shall be attached to the  
12 Nebraska fiduciary return for such taxable year.

13 (5) In the absence of the nonresident beneficiary's  
14 executed agreement being attached to the Nebraska fiduciary return,  
15 the estate or trust shall remit a portion of such beneficiary's  
16 income which was derived from or attributable to Nebraska sources  
17 with its Nebraska return for the taxable year. The amount of  
18 remittance, in such instance, shall be the highest individual  
19 income tax rate determined under section 77-2715.02 multiplied by  
20 the nonresident beneficiary's share of the estate or trust income  
21 which was derived from or attributable to sources within this  
22 state. The amount remitted shall be allowed as a credit against the  
23 Nebraska income tax liability of the beneficiary.

24 (6) The Tax Commissioner may allow a nonresident  
25 beneficiary to not file a Nebraska income tax return if the

1 nonresident beneficiary's only source of Nebraska income was his or  
2 her share of the estate's or trust's income which was derived from  
3 or attributable to sources within this state, the nonresident did  
4 not file an agreement to file a Nebraska income tax return, and  
5 the estate or trust has remitted the amount required by subsection  
6 (5) of this section on behalf of such nonresident beneficiary. The  
7 amount remitted shall be retained in satisfaction of the Nebraska  
8 income tax liability of the nonresident beneficiary.

9 (7) For purposes of this section, unless the context  
10 otherwise requires, simple trust shall mean any trust instrument  
11 which (a) requires that all income shall be distributed currently  
12 to the beneficiaries, (b) does not allow amounts to be paid,  
13 permanently set aside, or used in the tax year for charitable  
14 purposes, and (c) does not distribute amounts allocated in the  
15 corpus of the trust. Any trust which does not qualify as a simple  
16 trust shall be deemed a complex trust.

17 Sec. 5. Section 77-2734.03, Revised Statutes Cumulative  
18 Supplement, 2006, is amended to read:

19 77-2734.03 (1) (a) For taxable years commencing prior to  
20 January 1, 1997, any (i) insurer paying a tax on premiums and  
21 assessments pursuant to section 77-908 or 81-523, (ii) electric  
22 cooperative organized under the Joint Public Power Authority Act,  
23 or (iii) credit union shall be credited, in the computation of  
24 the tax due under the Nebraska Revenue Act of 1967, with the  
25 amount paid during the taxable year as taxes on such premiums and

1 assessments and taxes in lieu of intangible tax.

2 (b) For taxable years commencing on or after January 1,  
3 1997, any insurer paying a tax on premiums and assessments pursuant  
4 to section 77-908 or 81-523, any electric cooperative organized  
5 under the Joint Public Power Authority Act, or any credit union  
6 shall be credited, in the computation of the tax due under the  
7 Nebraska Revenue Act of 1967, with the amount paid during the  
8 taxable year as (i) taxes on such premiums and assessments included  
9 as Nebraska premiums and assessments under section 77-2734.05 and  
10 (ii) taxes in lieu of intangible tax.

11 (c) For taxable years commencing or deemed to commence  
12 prior to, on, or after January 1, 1998, any insurer paying a tax on  
13 premiums and assessments pursuant to section 77-908 or 81-523 shall  
14 be credited, in the computation of the tax due under the Nebraska  
15 Revenue Act of 1967, with the amount paid during the taxable year  
16 as assessments allowed as an offset against premium and related  
17 retaliatory tax liability pursuant to section 44-4233.

18 (2) There shall be allowed to corporate taxpayers a  
19 tax credit for contributions to community betterment programs as  
20 provided in the Community Development Assistance Act.

21 (3) There shall be allowed to corporate taxpayers a  
22 refundable income tax credit under the Beginning Farmer Tax Credit  
23 Act for all taxable years beginning or deemed to begin on or  
24 after January 1, 2001, under the Internal Revenue Code of 1986, as  
25 amended.

1           ~~(4)~~ There shall be allowed to corporate taxpayers a tax  
2 credit as provided in section 77-27,222.

3           ~~(5)~~ (4) The changes made to this section by Laws 2004,  
4 LB 983, apply to motor fuels purchased during any tax year ending  
5 or deemed to end on or after January 1, 2005, under the Internal  
6 Revenue Code of 1986, as amended.

7           ~~(6)~~ (5) There shall be allowed to corporate taxpayers  
8 refundable income tax credits under the Nebraska Advantage  
9 Microenterprise Tax Credit Act and the Nebraska Advantage Research  
10 and Development Act.

11           Sec. 6. Section 77-3806, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           77-3806 (1) The tax return shall be filed and the total  
14 amount of the franchise tax shall be due on the fifteenth day of  
15 the third month after the end of the taxable year. No extension  
16 of time to pay the tax shall be granted. If the Tax Commissioner  
17 determines that the amount of tax can be computed from available  
18 information filed by the financial institutions with either state  
19 or federal regulatory agencies, the Tax Commissioner may, by  
20 regulation, waive the requirement for the financial institutions to  
21 file returns.

22           (2) Sections 77-2714 to 77-27,135 relating to  
23 deficiencies, penalties, interest, the collection of delinquent  
24 amounts, and appeal procedures for the tax imposed by section  
25 77-2734.02 shall also apply to the tax imposed by section 77-3802.

1 If the filing of a return is waived by the Tax Commissioner, the  
2 payment of the tax shall be considered the filing of a return for  
3 purposes of sections 77-2714 to 77-27,135.

4 (3) No refund of the tax imposed by section 77-3802 shall  
5 be allowed unless a claim for such refund is filed within ninety  
6 days of the date on which (a) the tax is due or was paid, whichever  
7 is later, or (b) a change is made to the amount of deposits or  
8 the net financial income of the financial institution by a state or  
9 federal regulatory agency.

10 (4) Any such financial institution shall receive a credit  
11 on the franchise tax as provided under the Community Development  
12 Assistance Act, ~~and section 77-27,222.~~

13 Sec. 7. Original section 77-3806, Reissue Revised  
14 Statutes of Nebraska, and sections 77-908, 77-2701, 77-2715.07,  
15 77-2717, and 77-2734.03, Revised Statutes Cumulative Supplement,  
16 2006, are repealed.

17 Sec. 8. The following section is outright repealed:  
18 Section 77-27,222, Revised Statutes Cumulative Supplement, 2006.