

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 632**

Introduced by Avery, 28.

Read first time January 19, 2011

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend section  
2 77-2716, Revised Statutes Cumulative Supplement, 2010; to  
3 provide for an adjustment to income for certain  
4 depreciation; to repeal the original section; and to  
5 declare an emergency.  
6 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 77-2716, Revised Statutes Cumulative  
2 Supplement, 2010, is amended to read:

3                   77-2716 (1) The following adjustments to federal adjusted  
4 gross income or, for corporations and fiduciaries, federal taxable  
5 income shall be made for interest or dividends received:

6                   (a) There shall be subtracted interest or dividends  
7 received by the owner of obligations of the United States and its  
8 territories and possessions or of any authority, commission, or  
9 instrumentality of the United States to the extent includable in  
10 gross income for federal income tax purposes but exempt from state  
11 income taxes under the laws of the United States;

12                   (b) There shall be subtracted that portion of the total  
13 dividends and other income received from a regulated investment  
14 company which is attributable to obligations described in subdivision  
15 (a) of this subsection as reported to the recipient by the regulated  
16 investment company;

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

24                   (d) There shall be added that portion of the total  
25 dividends and other income received from a regulated investment

1 company which is attributable to obligations described in subdivision  
2 (c) of this subsection and excluded for federal income tax purposes  
3 as reported to the recipient by the regulated investment company; and

4 (e)(i) Any amount subtracted under this subsection shall  
5 be reduced by any interest on indebtedness incurred to carry the  
6 obligations or securities described in this subsection or the  
7 investment in the regulated investment company and by any expenses  
8 incurred in the production of interest or dividend income described  
9 in this subsection to the extent that such expenses, including  
10 amortizable bond premiums, are deductible in determining federal  
11 taxable income.

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

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

1 the portion of the loss derived from or connected with Nebraska  
2 sources.

3 (3) There shall be subtracted from federal adjusted gross  
4 income for all taxable years beginning on or after January 1, 1987,  
5 the amount of any state income tax refund to the extent such refund  
6 was deducted under the Internal Revenue Code, was not allowed in the  
7 computation of the tax due under the Nebraska Revenue Act of 1967,  
8 and is included in federal adjusted gross income.

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

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

21 (6) There shall be subtracted from federal taxable income  
22 a portion of the income earned by a corporation subject to the  
23 Internal Revenue Code of 1986 that is actually taxed by a foreign  
24 country or one of its political subdivisions at a rate in excess of  
25 the maximum federal tax rate for corporations. The taxpayer may make

1 the computation for each foreign country or for groups of foreign  
2 countries. The portion of the taxes that may be deducted shall be  
3 computed in the following manner:

4 (a) The amount of federal taxable income from operations  
5 within a foreign taxing jurisdiction shall be reduced by the amount  
6 of taxes actually paid to the foreign jurisdiction that are not  
7 deductible solely because the foreign tax credit was elected on the  
8 federal income tax return;

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

12 (c) The result of the calculation in subdivision (b) of  
13 this subsection shall be subtracted from the amount of federal  
14 taxable income used in subdivision (a) of this subsection. The result  
15 of such calculation, if greater than zero, shall be subtracted from  
16 federal taxable income.

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

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

1           (b) 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 two thousand five hundred dollars per  
6 married filing separate return or five thousand dollars for any other  
7 return.

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

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

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

1 section 521 of the Internal Revenue Code of 1986, as amended, limited  
2 cooperative association, subchapter S corporation, or joint venture,  
3 the increase shall be distributed to the partners, members,  
4 shareholders, patrons, or beneficiaries in the same manner as income  
5 is distributed for use 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 later  
13 taxable year. Twenty percent of the total amount of bonus  
14 depreciation added back by this subsection for tax years beginning or  
15 deemed to begin before January 1, 2003, under the Internal Revenue  
16 Code of 1986, as amended, may be subtracted in the first taxable year  
17 beginning or deemed to begin on or after January 1, 2005, under the  
18 Internal Revenue Code of 1986, as amended, and twenty percent in each  
19 of the next four following taxable years. Twenty percent of the total  
20 amount of bonus depreciation added back by this subsection for tax  
21 years beginning or deemed to begin on or after January 1, 2003, may  
22 be subtracted in the first taxable year beginning or deemed to begin  
23 on or after January 1, 2006, under the Internal Revenue Code of 1986,  
24 as amended, and twenty percent in each of the next four following  
25 taxable years.

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

15                   (11)(a) Federal adjusted gross income shall be reduced by  
16 contributions, up to two thousand dollars per married filing jointly  
17 return or one thousand dollars for any other return, and any  
18 investment earnings made as a participant in the Nebraska long-term  
19 care savings plan under the Long-Term Care Savings Plan Act, to the  
20 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 care  
23 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 of  
2 cancellation of the participation agreement or termination of the  
3 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 a  
7 credit for franchise tax paid by a financial institution under  
8 sections 77-3801 to 77-3807 as allowed by subsection (5) of section  
9 77-2715.07.

10 (13) For taxable years beginning or deemed to begin on or  
11 after January 1, 2011, under the Internal Revenue Code of 1986, as  
12 amended, federal adjusted gross income or, for corporations and  
13 fiduciaries, federal taxable income shall be increased by the amount  
14 of any additional first-year bonus depreciation allowed under section  
15 168(k)(5) of the code for: (a) One hundred percent of the cost of  
16 qualified property placed in service after September 8, 2010, and  
17 before January 1, 2012; and (b) fifty percent of the cost of  
18 qualified property placed in service after December 31, 2011, and  
19 before January 1, 2013.

20 (14) For taxable years beginning or deemed to begin on or  
21 after January 1, 2011, under the Internal Revenue Code of 1986, as  
22 amended, federal adjusted gross income or, for corporations and  
23 fiduciaries, federal taxable income shall be increased by the amount  
24 of any deduction claimed under section 179 of the code for any amount  
25 of qualified investment that exceeds twenty-five thousand dollars.

1                   Sec. 2. Original section 77-2716, Revised Statutes  
2 Cumulative Supplement, 2010, is repealed.

3                   Sec. 3. Since an emergency exists, this act takes effect  
4 when passed and approved according to law.