

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 255

Introduced by Morfeld, 46.

Read first time January 14, 2015

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2701, 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes
- 3 Cumulative Supplement, 2014; to provide income tax credits for
- 4 apprenticeships as prescribed; to harmonize provisions; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) For purposes of this section, qualified
2 apprenticeship training program means a program that:

3 (a) Is administered pursuant to 29 U.S.C. 50;

4 (b) Consists of at least one thousand two hundred hours but not more
5 than six thousand hours of on-the-job apprenticeship training in the
6 construction trades;

7 (c) Is certified in accordance with regulations adopted by the
8 United States Bureau of Apprenticeship and Training or the successor
9 agency of such bureau; and

10 (d) Is jointly administered by labor and management trustees.

11 (2) For taxable years beginning or deemed to begin on or after
12 January 1, 2016, under the Internal Revenue Code of 1986, as amended,
13 there shall be allowed as a nonrefundable credit against the income tax
14 imposed by the Nebraska Revenue Act of 1967 a credit in an amount
15 determined pursuant to subsection (3) of this section for wages paid by
16 the taxpayer to apprentices as part of a qualified apprenticeship
17 training program.

18 (3) The tax credit shall be in an amount equal to one dollar
19 multiplied by the total number of hours worked during the taxable year by
20 an apprentice who is working for the taxpayer as part of a qualified
21 apprentice training program, except that the amount of the credit allowed
22 during any taxable year with respect to any individual apprentice may not
23 exceed two thousand dollars or fifty percent of the total wages paid to
24 such apprentice during the taxable year, whichever is less.

25 (4) The Department of Revenue may adopt and promulgate rules and
26 regulations to carry out this section.

27 Sec. 2. Section 77-2701, Revised Statutes Cumulative Supplement,
28 2014, is amended to read:

29 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to 77-27,236
30 and section 1 of this act shall be known and may be cited as the Nebraska
31 Revenue Act of 1967.

1 Sec. 3. Section 77-2715.07, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

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

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

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

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

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

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

26 (c) A refundable credit as provided in section 77-5209.01 for
27 individuals who qualify for an income tax credit as a qualified beginning
28 farmer or livestock producer under the Beginning Farmer Tax Credit Act
29 for all taxable years beginning or deemed to begin on or after January 1,
30 2006, under the Internal Revenue Code of 1986, as amended;

31 (d) A refundable credit for individuals who qualify for an income

1 tax credit under the Angel Investment Tax Credit Act, the Nebraska
2 Advantage Microenterprise Tax Credit Act, or the Nebraska Advantage
3 Research and Development Act; and

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

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

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

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

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

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

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

25 (f) A credit for wages paid to apprentices as provided in section 1
26 of this act.

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

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

31 (b) A credit to all estates and trusts for contributions to

1 certified community betterment programs as provided in the Community
2 Development Assistance Act; and

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

14 (5)(a) For all taxable years beginning on or after January 1, 2007,
15 and before January 1, 2009, under the Internal Revenue Code of 1986, as
16 amended, there shall be allowed to each partner, shareholder, member, or
17 beneficiary of a partnership, subchapter S corporation, limited liability
18 company, or estate or trust a nonrefundable credit against the income tax
19 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the
20 partner's, shareholder's, member's, or beneficiary's portion of the
21 amount of franchise tax paid to the state under sections 77-3801 to
22 77-3807 by a financial institution.

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

31 (c) Each partner, shareholder, member, or beneficiary shall report

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

6 Sec. 4. Section 77-2717, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
9 before January 1, 2014, the tax imposed on all resident estates and
10 trusts shall be a percentage of the federal taxable income of such
11 estates and trusts as modified in section 77-2716, plus a percentage of
12 the federal alternative minimum tax and the federal tax on premature or
13 lump-sum distributions from qualified retirement plans. The additional
14 taxes shall be recomputed by (A) substituting Nebraska taxable income for
15 federal taxable income, (B) calculating what the federal alternative
16 minimum tax would be on Nebraska taxable income and adjusting such
17 calculations for any items which are reflected differently in the
18 determination of federal taxable income, and (C) applying Nebraska rates
19 to the result. The federal credit for prior year minimum tax, after the
20 recomputations required by the Nebraska Revenue Act of 1967, and the
21 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
22 and the Nebraska Advantage Research and Development Act shall be allowed
23 as a reduction in the income tax due. A refundable income tax credit
24 shall be allowed for all resident estates and trusts under the Angel
25 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
26 Credit Act, and the Nebraska Advantage Research and Development Act. A
27 nonrefundable income tax credit shall be allowed for all resident estates
28 and trusts as provided in the New Markets Job Growth Investment Act.

29 (ii) For taxable years beginning or deemed to begin on or after
30 January 1, 2014, the tax imposed on all resident estates and trusts shall
31 be a percentage of the federal taxable income of such estates and trusts

1 as modified in section 77-2716, plus a percentage of the federal tax on
2 premature or lump-sum distributions from qualified retirement plans. The
3 additional taxes shall be recomputed by substituting Nebraska taxable
4 income for federal taxable income and applying Nebraska rates to the
5 result. The credits provided in the Nebraska Advantage Microenterprise
6 Tax Credit Act and the Nebraska Advantage Research and Development Act
7 shall be allowed as a reduction in the income tax due. A refundable
8 income tax credit shall be allowed for all resident estates and trusts
9 under the Angel Investment Tax Credit Act, the Nebraska Advantage
10 Microenterprise Tax Credit Act, and the Nebraska Advantage Research and
11 Development Act. A nonrefundable income tax credit shall be allowed for
12 all resident estates and trusts as provided in the Nebraska Job Creation
13 and Mainstreet Revitalization Act, ~~and~~ the New Markets Job Growth
14 Investment Act, and section 1 of this act.

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

1 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
2 and the Nebraska Advantage Research and Development Act. A nonrefundable
3 income tax credit shall be allowed for all nonresident estates and trusts
4 as provided in the Nebraska Job Creation and Mainstreet Revitalization
5 Act, ~~and~~ the New Markets Job Growth Investment Act, and section 1 of this
6 act.

7 (2) In all instances wherein a fiduciary income tax return is
8 required under the provisions of the Internal Revenue Code, a Nebraska
9 fiduciary return shall be filed, except that a fiduciary return shall not
10 be required to be filed regarding a simple trust if all of the trust's
11 beneficiaries are residents of the State of Nebraska, all of the trust's
12 income is derived from sources in this state, and the trust has no
13 federal tax liability. The fiduciary shall be responsible for making the
14 return for the estate or trust for which he or she acts, whether the
15 income be taxable to the estate or trust or to the beneficiaries thereof.
16 The fiduciary shall include in the return a statement of each
17 beneficiary's distributive share of net income when such income is
18 taxable to such beneficiaries.

19 (3) The beneficiaries of such estate or trust who are residents of
20 this state shall include in their income their proportionate share of
21 such estate's or trust's federal income and shall reduce their Nebraska
22 tax liability by their proportionate share of the credits as provided in
23 the Angel Investment Tax Credit Act, the Nebraska Advantage
24 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
25 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
26 Act, ~~and~~ the New Markets Job Growth Investment Act, and section 1 of this
27 act. There shall be allowed to a beneficiary a refundable income tax
28 credit under the Beginning Farmer Tax Credit Act for all taxable years
29 beginning or deemed to begin on or after January 1, 2001, under the
30 Internal Revenue Code of 1986, as amended.

31 (4) If any beneficiary of such estate or trust is a nonresident

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

17 (5) In the absence of the nonresident beneficiary's executed
18 agreement being attached to the Nebraska fiduciary return, the estate or
19 trust shall remit a portion of such beneficiary's income which was
20 derived from or attributable to Nebraska sources with its Nebraska return
21 for the taxable year. For taxable years beginning or deemed to begin
22 before January 1, 2013, the amount of remittance, in such instance, shall
23 be the highest individual income tax rate determined under section
24 77-2715.02 multiplied by the nonresident beneficiary's share of the
25 estate or trust income which was derived from or attributable to sources
26 within this state. For taxable years beginning or deemed to begin on or
27 after January 1, 2013, the amount of remittance, in such instance, shall
28 be the highest individual income tax rate determined under section
29 77-2715.03 multiplied by the nonresident beneficiary's share of the
30 estate or trust income which was derived from or attributable to sources
31 within this state. The amount remitted shall be allowed as a credit

1 against the Nebraska income tax liability of the beneficiary.

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

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

18 (8) For purposes of this section, any beneficiary of an estate or
19 trust that is a grantor trust of a nonresident shall be disregarded and
20 this section shall apply as though the nonresident grantor was the
21 beneficiary.

22 Sec. 5. Section 77-2734.03, Revised Statutes Cumulative Supplement,
23 2014, is amended to read:

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

31 (b) For taxable years commencing on or after January 1, 1997, any

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

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

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

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

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

26 (5) There shall be allowed to corporate taxpayers refundable income
27 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act
28 and the Nebraska Advantage Research and Development Act.

29 (6) There shall be allowed to corporate taxpayers a nonrefundable
30 income tax credit for investment in a biodiesel facility as provided in
31 section 77-27,236.

1 (7) There shall be allowed to corporate taxpayers a nonrefundable
2 income tax credit as provided in the Nebraska Job Creation and Mainstreet
3 Revitalization Act, ~~and~~ the New Markets Job Growth Investment Act, and
4 section 1 of this act.

5 Sec. 6. Original sections 77-2701, 77-2715.07, 77-2717, and
6 77-2734.03, Revised Statutes Cumulative Supplement, 2014, are repealed.