

LEGISLATURE OF NEBRASKA
ONE HUNDRED FIFTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 313

Introduced by Briese, 41.

Read first time January 12, 2017

Committee:

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend section
- 2 77-2701.02, Reissue Revised Statutes of Nebraska, and sections
- 3 77-2715.07 and 77-27,132, Revised Statutes Cumulative Supplement,
- 4 2016; to change the sales and use tax rate; to increase the earned
- 5 income tax credit; to provide for the use of the net increase in tax
- 6 revenue; to create a fund; to provide property tax credits; to
- 7 harmonize provisions; to provide an operative date; and to repeal
- 8 the original sections.
- 9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701.02, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 77-2701.02 Pursuant to section 77-2715.01:

4 (1) Until July 1, 1998, the rate of the sales tax levied pursuant to
5 section 77-2703 shall be five percent;

6 (2) Commencing July 1, 1998, and until July 1, 1999, the rate of the
7 sales tax levied pursuant to section 77-2703 shall be four and one-half
8 percent;

9 (3) Commencing July 1, 1999, and until the start of the first
10 calendar quarter after July 20, 2002, the rate of the sales tax levied
11 pursuant to section 77-2703 shall be five percent;~~and~~

12 (4) Commencing on the start of the first calendar quarter after July
13 20, 2002, and until the operative date of this act, the rate of the sales
14 tax levied pursuant to section 77-2703 shall be five and one-half
15 percent; and -

16 (5) Commencing on the operative date of this act, the rate of the
17 sales tax levied pursuant to section 77-2703 shall be six and one-half
18 percent.

19 Sec. 2. Section 77-2715.07, Revised Statutes Cumulative Supplement,
20 2016, is amended to read:

21 77-2715.07 (1) There shall be allowed to qualified resident
22 individuals as a nonrefundable credit against the income tax imposed by
23 the Nebraska Revenue Act of 1967:

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

26 (b) A credit for taxes paid to another state as provided in section
27 77-2730.

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

30 (a) For returns filed reporting federal adjusted gross incomes of
31 greater than twenty-nine thousand dollars, a nonrefundable credit equal

1 to twenty-five percent of the federal credit allowed under section 21 of
2 the Internal Revenue Code of 1986, as amended, except that for taxable
3 years beginning or deemed to begin on or after January 1, 2015, such
4 nonrefundable credit shall be allowed only if the individual would have
5 received the federal credit allowed under section 21 of the code after
6 adding back in any carryforward of a net operating loss that was deducted
7 pursuant to such section in determining eligibility for the federal
8 credit;

9 (b) For returns filed reporting federal adjusted gross income of
10 twenty-nine thousand dollars or less, a refundable credit equal to a
11 percentage of the federal credit allowable under section 21 of the
12 Internal Revenue Code of 1986, as amended, whether or not the federal
13 credit was limited by the federal tax liability. The percentage of the
14 federal credit shall be one hundred percent for incomes not greater than
15 twenty-two thousand dollars, and the percentage shall be reduced by ten
16 percent for each one thousand dollars, or fraction thereof, by which the
17 reported federal adjusted gross income exceeds twenty-two thousand
18 dollars, except that for taxable years beginning or deemed to begin on or
19 after January 1, 2015, such refundable credit shall be allowed only if
20 the individual would have received the federal credit allowed under
21 section 21 of the code after adding back in any carryforward of a net
22 operating loss that was deducted pursuant to such section in determining
23 eligibility for the federal credit;

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

29 (d) A refundable credit for individuals who qualify for an income
30 tax credit under the Angel Investment Tax Credit Act, the Nebraska
31 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research

1 and Development Act, or the Volunteer Emergency Responders Incentive Act;
2 and

3 (e)(i) (e) A refundable credit equal to:

4 (A) Ten ten percent of the federal credit allowed under section 32
5 of the Internal Revenue Code of 1986, as amended, for taxable years
6 beginning or deemed to begin before January 1, 2018; and

7 (B) Seventeen percent of the federal credit allowed under section 32
8 of the Internal Revenue Code of 1986, as amended, for taxable years
9 beginning or deemed to begin on or after January 1, 2018.

10 (ii) For ~~except that for~~ taxable years beginning or deemed to begin
11 on or after January 1, 2015, the such refundable credit provided in
12 subdivision (2)(e)(i) of this section shall be allowed only if the
13 individual would have received the federal credit allowed under section
14 32 of the code after adding back in any carryforward of a net operating
15 loss that was deducted pursuant to such section in determining
16 eligibility for the federal credit.

17 (3) There shall be allowed to all individuals as a nonrefundable
18 credit against the income tax imposed by the Nebraska Revenue Act of
19 1967:

20 (a) A credit for personal exemptions allowed under section
21 77-2716.01;

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

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

31 (d) A credit as provided in the New Markets Job Growth Investment

1 Act;

2 (e) A credit as provided in the Nebraska Job Creation and Mainstreet
3 Revitalization Act;

4 (f) A credit to employers as provided in section 77-27,238; and

5 (g) A credit as provided in the Affordable Housing Tax Credit Act.

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

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

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

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

24 (5)(a) For all taxable years beginning on or after January 1, 2007,
25 and before January 1, 2009, under the Internal Revenue Code of 1986, as
26 amended, there shall be allowed to each partner, shareholder, member, or
27 beneficiary of a partnership, subchapter S corporation, limited liability
28 company, or estate or trust a nonrefundable credit against the income tax
29 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the
30 partner's, shareholder's, member's, or beneficiary's portion of the
31 amount of franchise tax paid to the state under sections 77-3801 to

1 77-3807 by a financial institution.

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

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

16 (6) There shall be allowed to all individuals nonrefundable credits
17 against the income tax imposed by the Nebraska Revenue Act of 1967 as
18 provided in section 77-3604 and refundable credits against the income tax
19 imposed by the Nebraska Revenue Act of 1967 as provided in section
20 77-3605.

21 Sec. 3. Section 77-27,132, Revised Statutes Cumulative Supplement,
22 2016, is amended to read:

23 77-27,132 (1) There is hereby created a fund to be designated the
24 Revenue Distribution Fund which shall be set apart and maintained by the
25 Tax Commissioner. Revenue not required to be credited to the General Fund
26 or any other specified fund may be credited to the Revenue Distribution
27 Fund. Credits and refunds of such revenue shall be paid from the Revenue
28 Distribution Fund. The balance of the amount credited, after credits and
29 refunds, shall be allocated as provided by the statutes creating such
30 revenue.

31 (2) The Tax Commissioner shall pay to a depository bank designated

1 by the State Treasurer all amounts collected under the Nebraska Revenue
2 Act of 1967. The Tax Commissioner shall present to the State Treasurer
3 bank receipts showing amounts so deposited in the bank, and of the
4 amounts so deposited the State Treasurer shall:

5 (a) For transactions occurring on or after October 1, 2014, and
6 before October 1, 2019, credit to the Game and Parks Commission Capital
7 Maintenance Fund all of the proceeds of the sales and use taxes imposed
8 pursuant to section 77-2703 on the sale or lease of motorboats as defined
9 in section 37-1204, personal watercraft as defined in section 37-1204.01,
10 all-terrain vehicles as defined in section 60-103, and utility-type
11 vehicles as defined in section 60-135.01;

12 (b) Credit to the Highway Trust Fund all of the proceeds of the
13 sales and use taxes derived from the sale or lease for periods of more
14 than thirty-one days of motor vehicles, trailers, and semitrailers,
15 except that the proceeds equal to any sales tax rate provided for in
16 section 77-2701.02 that is in excess of six ~~five~~ percent derived from the
17 sale or lease for periods of more than thirty-one days of motor vehicles,
18 trailers, and semitrailers shall be credited to the Highway Allocation
19 Fund;

20 (c) For transactions occurring on or after July 1, 2013, and before
21 July 1, 2033, of the proceeds of the sales and use taxes derived from
22 transactions other than those listed in subdivisions (2)(a) and (b) of
23 this section from a sales tax rate of one-quarter of one percent, credit
24 monthly eighty-five percent to the State Highway Capital Improvement Fund
25 and fifteen percent to the Highway Allocation Fund; ~~and~~

26 (d) Of the proceeds of the sales and use taxes derived from
27 transactions other than those listed in subdivisions (2)(a) and (b) of
28 this section, credit to the Property Tax Credit Cash Fund the amount
29 certified under section 77-27,237, if any such certification is made;
30 and -

31 (e) Credit to the Excess Revenue Property Tax Credit Fund an amount

1 equal to the net increase in state tax revenue received as a result of
2 the changes made by this legislative bill. Such amount shall be
3 determined annually by the Tax Commissioner.

4 The balance of all amounts collected under the Nebraska Revenue Act
5 of 1967 shall be credited to the General Fund.

6 Sec. 4. (1) The Excess Revenue Property Tax Credit Fund is created.
7 The fund shall consist of funds credited under section 77-27,132 and
8 shall be used to provide a property tax credit to owners of real
9 property. Any money in the fund available for investment shall be
10 invested by the state investment officer pursuant to the Nebraska Capital
11 Expansion Act and the Nebraska State Funds Investment Act.

12 (2) To determine the amount of the property tax credit, the county
13 treasurer shall multiply the amount disbursed to the county under
14 subsection (4) of this section by the ratio of the real property
15 valuation of the parcel to the total real property valuation in the
16 county. The amount determined shall be the property tax credit for the
17 property. The property tax credit shall appear on the property tax
18 statement.

19 (3) If the real property owner qualifies for a homestead exemption
20 under sections 77-3501 to 77-3529, the owner shall also be qualified for
21 the property tax credit provided in this section to the extent of any
22 remaining liability after calculation of the relief provided by the
23 homestead exemption. If the credit results in a property tax liability on
24 the homestead that is less than zero, the amount of the credit which
25 cannot be used by the taxpayer shall be returned to the State Treasurer
26 by July 1 of the year the amount disbursed to the county was disbursed.
27 The State Treasurer shall immediately credit any funds returned under
28 this subsection Excess Revenue Property Tax Credit Fun.

29 (4) The amount disbursed to each county shall be equal to the amount
30 in the Excess Revenue Property Tax Credit Fund multiplied by the ratio of
31 the real property valuation in the county to the real property valuation

1 in the state. By September 15, the Property Tax Administrator shall
2 determine the amount to be disbursed under this subsection to each county
3 and certify such amounts to the State Treasurer and to each county. The
4 disbursements to the counties shall occur in two equal payments, the
5 first on or before January 31 and the second on or before April 1. After
6 retaining one percent of the receipts for costs, the county treasurer
7 shall allocate the remaining receipts to each taxing unit levying taxes
8 on taxable property in the tax district in which the real property is
9 located in the same proportion that the levy of such taxing unit bears to
10 the total levy on taxable property of all the taxing units in the tax
11 district in which the real property is located.

12 Sec. 5. This act becomes operative on January 1, 2018.

13 Sec. 6. Original section 77-2701.02, Reissue Revised Statutes of
14 Nebraska, and sections 77-2715.07 and 77-27,132, Revised Statutes
15 Cumulative Supplement, 2016, are repealed.