

AMENDMENTS TO LB560

Introduced by Revenue.

1 1. Strike the original sections and insert the following new
2 sections:

3 Section 1. Section 77-2715.07, Reissue Revised Statutes of Nebraska,
4 is amended to read:

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

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

10 (b) A credit for taxes paid to another state as provided in section
11 77-2730.

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

14 (a) For returns filed reporting federal adjusted gross incomes of
15 greater than twenty-nine thousand dollars, a nonrefundable credit equal
16 to twenty-five percent of the federal credit allowed under section 21 of
17 the Internal Revenue Code of 1986, as amended, except that for taxable
18 years beginning or deemed to begin on or after January 1, 2015, such
19 nonrefundable credit shall be allowed only if the individual would have
20 received the federal credit allowed under section 21 of the code after
21 adding back in any carryforward of a net operating loss that was deducted
22 pursuant to such section in determining eligibility for the federal
23 credit;

24 (b) For returns filed reporting federal adjusted gross income of
25 twenty-nine thousand dollars or less, a refundable credit equal to a
26 percentage of the federal credit allowable under section 21 of the
27 Internal Revenue Code of 1986, as amended, whether or not the federal

1 credit was limited by the federal tax liability. The percentage of the
2 federal credit shall be one hundred percent for incomes not greater than
3 twenty-two thousand dollars, and the percentage shall be reduced by ten
4 percent for each one thousand dollars, or fraction thereof, by which the
5 reported federal adjusted gross income exceeds twenty-two thousand
6 dollars, except that for taxable years beginning or deemed to begin on or
7 after January 1, 2015, such refundable credit shall be allowed only if
8 the individual would have received the federal credit allowed under
9 section 21 of the code after adding back in any carryforward of a net
10 operating loss that was deducted pursuant to such section in determining
11 eligibility for the federal credit;

12 (c) A refundable credit as provided in section 77-5209.01 for
13 individuals who qualify for an income tax credit as a qualified beginning
14 farmer or livestock producer under the Beginning Farmer Tax Credit Act
15 for all taxable years beginning or deemed to begin on or after January 1,
16 2006, under the Internal Revenue Code of 1986, as amended;

17 (d) A refundable credit for individuals who qualify for an income
18 tax credit under the Angel Investment Tax Credit Act, the Nebraska
19 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
20 and Development Act, or the Volunteer Emergency Responders Incentive Act;
21 and

22 (e) A refundable credit equal to ten percent of the federal credit
23 allowed under section 32 of the Internal Revenue Code of 1986, as
24 amended, except that for taxable years beginning or deemed to begin on or
25 after January 1, 2015, such refundable credit shall be allowed only if
26 the individual would have received the federal credit allowed under
27 section 32 of the code after adding back in any carryforward of a net
28 operating loss that was deducted pursuant to such section in determining
29 eligibility for the federal credit.

30 (3) There shall be allowed to all individuals as a nonrefundable
31 credit against the income tax imposed by the Nebraska Revenue Act of

1 1967:

2 (a) A credit for personal exemptions allowed under section
3 77-2716.01;

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

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

13 (d) A credit as provided in the New Markets Job Growth Investment
14 Act;

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

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

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

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

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

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

26 (c) A refundable credit for individuals who qualify for an income
27 tax credit as an owner of agricultural assets under the Beginning Farmer
28 Tax Credit Act for all taxable years beginning or deemed to begin on or
29 after January 1, 2009, under the Internal Revenue Code of 1986, as
30 amended. The credit allowed for each partner, shareholder, member, or
31 beneficiary of a partnership, corporation, limited liability company, or

1 estate or trust qualifying for an income tax credit as an owner of
2 agricultural assets under the Beginning Farmer Tax Credit Act shall be
3 equal to the partner's, shareholder's, member's, or beneficiary's portion
4 of the amount of tax credit distributed pursuant to subsection (6) ~~(4)~~ of
5 section 77-5211.

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

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

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

29 (6) There shall be allowed to all individuals nonrefundable credits
30 against the income tax imposed by the Nebraska Revenue Act of 1967 as
31 provided in section 77-3604 and refundable credits against the income tax

1 imposed by the Nebraska Revenue Act of 1967 as provided in section
2 77-3605.

3 Sec. 2. Section 77-5203, Reissue Revised Statutes of Nebraska, is
4 amended to read:

5 77-5203 For purposes of the Beginning Farmer Tax Credit Act:

6 (1) Agricultural assets means agricultural land, livestock, farming,
7 or livestock production facilities or buildings and machinery used for
8 farming or livestock production located in Nebraska;

9 (2) Board means the Beginning Farmer Board created by section
10 77-5204;

11 (3) Cash rent agreement means a rental agreement in which the
12 principal consideration given to the owner of agricultural assets is a
13 predetermined amount of money. A flex or variable rent agreement is an
14 alternative form of a cash rent agreement in which a predetermined base
15 rent is adjusted for actual crop yield, crop price, or both according to
16 a predetermined formula;

17 (4) (3) Farm means any tract of land over ten acres in area used for
18 or devoted to the commercial production of farm products;

19 (5) (4) Farm product means those plants and animals useful to man
20 and includes, but is not limited to, forages and sod crops, grains and
21 feed crops, dairy and dairy products, poultry and poultry products,
22 livestock, including breeding and grazing livestock, fruits, and
23 vegetables;

24 (6) (5) Farming or livestock production means the active use,
25 management, and operation of real and personal property for the
26 production of a farm product;

27 (7) (6) Financial management program means a program for beginning
28 farmers or livestock producers which includes, but is not limited to,
29 assistance in the creation and proper use of record-keeping systems,
30 periodic private consultations with licensed financial management
31 personnel, year-end monthly cash flow analysis, and detailed enterprise

1 analysis;

2 ~~(8)~~ ~~(7)~~ Owner of agricultural assets means:

3 (a) An individual or a trustee having an ownership interest in an
4 agricultural asset located within the State of Nebraska who meets any
5 qualifications determined by the board;

6 (b) A spouse, child, or sibling who acquires an ownership interest
7 in agricultural assets as a joint tenant, heir, or devisee of an
8 individual or trustee who would qualify as an owner of agricultural
9 assets under subdivision ~~(8)(a)~~ ~~(7)(a)~~ of this section; or

10 (c) A partnership, corporation, limited liability company, or other
11 business entity having an ownership interest in an agricultural asset
12 located within the State of Nebraska which meets any additional
13 qualifications determined by the board;

14 ~~(9)~~ ~~(8)~~ Qualified beginning farmer or livestock producer means an
15 individual who is a resident individual as defined in section 77-2714.01,
16 who has entered farming or livestock production or is seeking entry into
17 farming or livestock production, who intends to farm or raise crops or
18 livestock on land located within the state borders of Nebraska, and who
19 meets the eligibility guidelines established in section 77-5209 and such
20 other qualifications as determined by the board; and

21 ~~(10)~~ ~~(9)~~ Share-rent agreement means a rental agreement in which the
22 principal consideration given to the owner of agricultural assets is a
23 predetermined portion of the production of farm products from the rented
24 agricultural assets.

25 Sec. 3. Section 77-5209, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 77-5209 (1) The board shall determine who is qualified as a
28 beginning farmer or livestock producer based on the qualifications found
29 in this section. A qualified beginning farmer or livestock producer shall
30 be an individual who: (a) Has a net worth of not more than two hundred
31 thousand dollars, including any holdings by a spouse or dependent, based

1 on fair market value; (b) provides the majority of the day-to-day
2 physical labor and management of his or her farming or livestock
3 production operations; (c) has, by the judgment of the board, adequate
4 farming or livestock production experience or demonstrates knowledge in
5 the type of farming or livestock production for which he or she seeks
6 assistance from the board; (d) demonstrates to the board a profit
7 potential by submitting board-approved projected earnings statements and
8 agrees that farming or livestock production is intended to become his or
9 her principal source of income; (e) demonstrates to the board a need for
10 assistance; (f) participates in a financial management program approved
11 by the board; (g) submits a nutrient management plan and a soil
12 conservation plan to the board on any applicable agricultural assets
13 purchased or rented from an owner of agricultural assets; and (h) has
14 such other qualifications as specified by the board. The qualified
15 beginning farmer or livestock producer net worth thresholds in
16 subdivision (a) of this subsection shall be adjusted annually beginning
17 October 1, 2009, and each October 1 thereafter, by taking the average
18 Producer Price Index for all commodities, published by the United States
19 Department of Labor, Bureau of Labor Statistics, for the most recent
20 twelve available periods divided by the Producer Price Index for 2008 and
21 multiplying the result by the qualified beginning farmer's or livestock
22 producer's net worth threshold. If the resulting amount is not a multiple
23 of twenty-five thousand dollars, the amount shall be rounded to the next
24 lowest twenty-five thousand dollars.

25 (2) A qualified beginning farmer or livestock producer who has
26 participated in a board approved and certified three-year rental
27 agreement with an owner of agricultural assets shall be eligible to file
28 subsequent applications for different assets.

29 ~~(2) A qualified beginning farmer or livestock producer who has~~
30 ~~participated in a board approved and certified three-year rental~~
31 ~~agreement with an owner of agricultural assets shall not be eligible to~~

1 ~~file a subsequent application with the board but may refer to the board~~
2 ~~for additional support and participate in programs, including educational~~
3 ~~and financial programs and seminars, established or recommended by the~~
4 ~~board that are applicable to the continued success of such farmer or~~
5 ~~livestock producer.~~

6 Sec. 4. Section 77-5209.01, Reissue Revised Statutes of Nebraska, is
7 amended to read:

8 77-5209.01 A qualified beginning farmer or livestock producer in the
9 first, second, or third year of a qualifying three-year rental agreement
10 shall be allowed a one-time refundable credit ~~to be applied~~ against the
11 income tax imposed by the Nebraska Revenue Act of 1967 ~~state income tax~~
12 ~~liability of such individual~~ for the cost of participation in the
13 financial management program required for eligibility under section
14 77-5209. The amount of the credit shall be the actual cost of
15 participation in an approved program incurred during the tax year for
16 which the credit is claimed, up to a maximum of five hundred dollars.

17 Sec. 5. Section 77-5211, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 77-5211 (1) Except as otherwise disallowed under subsection (4) ~~(5)~~
20 of this section, an owner of agricultural assets shall be allowed a
21 refundable credit ~~to be applied~~ against the income tax imposed by the
22 Nebraska Revenue Act of 1967 ~~state income tax liability of such owner~~ for
23 agricultural assets rented on a rental agreement basis, including cash
24 rent of agricultural assets or cash equivalent of a share-rent rental, to
25 qualified beginning farmers or livestock producers. Such asset shall be
26 rented at prevailing community rates as determined by the board.

27 (2) An owner of agricultural assets who has participated in a board
28 approved and certified three-year rental agreement with a beginning
29 farmer or livestock producer shall be eligible to file subsequent
30 applications for different assets.

31 (3) Except as allowed pursuant to subsection (5) of this section,

1 tax credits for an agricultural asset may be issued for a maximum of
2 three years.

3 (4) ~~(2)~~ The credit allowed shall be for renting agricultural assets
4 used for farming or livestock production. Such credit shall be granted by
5 the Department of Revenue only after approval and certification by the
6 board and a written three-year rental agreement for such assets is
7 entered into between an owner of agricultural assets and a qualified
8 beginning farmer or livestock producer. An owner of agricultural assets
9 or qualified beginning farmer or livestock producer may terminate such
10 agreement for reasonable cause upon approval by the board. If an
11 agreement is terminated without fault on the part of the owner of
12 agricultural assets as determined by the board, the tax credit shall not
13 be retroactively disallowed. If an agreement is terminated with fault on
14 the part of the owner of agricultural assets as determined by the board,
15 any prior tax credits claimed by such owner shall be disallowed and
16 recaptured and shall be immediately due and payable to the State of
17 Nebraska.

18 (5) ~~(3)~~ A credit may be granted to an owner of agricultural assets
19 for renting agricultural assets, including cash rent of agricultural
20 assets or cash equivalent of a share-rent agreement, to any qualified
21 beginning farmer or livestock producer for a period of three years. An
22 owner of agricultural assets shall ~~not~~ be eligible for further credits
23 for such assets under the Beginning Farmer Tax Credit Act when unless the
24 rental agreement is terminated prior to the end of the three-year period
25 through no fault of the owner of agricultural assets. If the board finds
26 that such a termination was not the fault of the owner of the
27 agricultural assets, it may approve the owner for credits arising from a
28 subsequent qualifying rental agreement on the same asset with a different
29 qualified beginning farmer or livestock producer.

30 (6) ~~(4)~~ Any credit allowable to a partnership, a corporation, a
31 limited liability company, or an estate or trust may be distributed to

1 the partners, members, shareholders, or beneficiaries. Any credit
2 distributed shall be distributed in the same manner as income is
3 distributed.

4 (7) ~~(5)~~ The credit allowed under this section shall not be allowed
5 to an owner of agricultural assets for a rental agreement with a
6 beginning farmer or livestock producer who is a relative, as defined in
7 section 36-702, of the owner of agricultural assets or of a partner,
8 member, shareholder, or trustee of the owner of agricultural assets
9 unless the rental agreement is included in a written succession plan.
10 Such succession plan shall be in the form of a written contract or other
11 instrument legally binding the parties to a process and timetable for the
12 transfer of agricultural assets from the owner of agricultural assets to
13 the beginning farmer or livestock producer. The succession plan shall
14 provide for the transfer of assets to be completed within a period of no
15 longer than thirty years, except that when the asset to be transferred is
16 land owned by an individual, the period of transfer may be for a period
17 up to the date of death of the owner. The owner of agricultural assets
18 shall be allowed the credit provided for qualified rental agreements
19 under this section if the board certifies the plan as providing a
20 reasonable manner and probability of successful transfer.

21 Sec. 6. Section 77-5212, Reissue Revised Statutes of Nebraska, is
22 amended to read:

23 77-5212 In evaluating a rental agreement between an owner of
24 agricultural assets and a qualified beginning farmer or livestock
25 producer, the board shall not approve and certify credit for an owner of
26 agricultural assets who ~~(1)~~ has, with fault, terminated a prior board
27 approved and certified rental agreement with a qualified beginning farmer
28 or livestock producer or if the agricultural assets have previously been
29 approved in a qualifying rental agreement ~~(2) is proposing a rental~~
30 ~~agreement of agricultural assets which, if rented to a qualified~~
31 ~~beginning farmer or livestock producer, would cause the lessee to be~~

1 ~~responsible for managing or maintaining a farm which, based on the~~
2 ~~discretion of the board, is of greater scope and scale than necessary for~~
3 ~~a viably sized farm as established by the guidelines implemented by the~~
4 ~~board in order to adequately support a beginning farmer or livestock~~
5 ~~producer.~~ Any person aggrieved by a decision of the board may appeal the
6 decision, and the appeal shall be in accordance with the Administrative
7 Procedure Act.

8 Sec. 7. Original sections 77-2715.07, 77-5203, 77-5209, 77-5209.01,
9 77-5211, and 77-5212, Reissue Revised Statutes of Nebraska, are repealed.