AN ACT

ENTITLED, An Act to revise certain bank franchise tax provisions regarding net income and net operating losses.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 10-43-10.2 be amended to read as follows:

10-43-10.2. Added to taxable income are:

(1) Interest or dividend income derived from obligations or securities of states or political subdivisions or authorities thereof not included in taxable income as determined under the Internal Revenue Code;

(2) All income taxes paid or accrued, as the case may be, during the tax year under the provisions of chapter 10-43 or under the provisions of any income tax, or franchise or privilege taxes measured by income levied by any other state or political subdivision to the extent that such taxes were deducted to determine federal taxable income;

(3) Bad debt deductions in excess of credits actually ascertained to be worthless and charged off within the tax year;

(4) Any amount subsequently received on account of a bad debt previously charged off as a deduction for tax purposes;

(5) Any amount received as a refund of federal income taxes during the tax year if that amount was previously deducted in determining net income;

(6) Dividends received from other corporations to the extent that such dividends have been deducted from net income as determined under the Internal Revenue Code; and

(7) Any capital loss from liquidating sales within the twelve-month period beginning on the date on which a financial institution adopts a plan of complete liquidation if all of the assets of the financial institution are distributed in complete liquidation less assets

retained to meet claims within the twelve-month period, or from the distribution of property in complete liquidation of the financial institution which is subject to federal corporate income taxes pursuant to § 336 of the Internal Revenue Code.

Section 2. That § 10-43-10.3 be amended to read as follows:

10-43-10.3. Subtracted from taxable income are:

(1) Interest and dividends from obligations of the United States government and its agencies which this state is prohibited by federal law or treaty from taxing by an income tax, a franchise tax, or a privilege tax;

(2) Dividends received from financial institutions subject to taxation under this chapter to the extent such dividends were included in taxable income as determined under the Internal Revenue Code;

(3) Taxes imposed upon the financial institution within the tax year, under the Internal Revenue Code excluding any taxes imposed under 26 USC § 1374 and 26 USC § 1375;

(4) Any interest expense described in §§ 291(e)(1)(B) and 265(b) of the Internal Revenue Code, which interest expense shall be deductible;

(5) Any capital gain from liquidating sales within the twelve-month period beginning on the date on which a financial institution adopts a plan of complete liquidation if all of the assets of the financial institution are distributed in complete liquidation less assets retained to meet claims within the twelve-month period, or from the distribution of property in complete liquidation of the financial institution which is subject to federal corporate income taxes pursuant to § 336 of the Internal Revenue Code;

(6) Any adjustment to taxable income due to a change in the method used to compute the federal bad debt deduction where the adjustment has already been included in taxable income for purposes of the tax imposed by this chapter;

(7) For those financial institutions making an election pursuant to 26 USC § 1362(a), as amended, and in effect on January 1, 1997, imputed federal income taxes in an amount equal to the taxes that would have been paid on net income as defined in § 10-43-10.1 had the financial institution continued to file its federal tax return without making an election to file pursuant to 26 USC § 1362(a); and

(8) For those financial institutions organized as limited liability companies, imputed federal income taxes in an amount equal to the taxes that would have been paid on net income as defined in § 10-43-10.1 had the financial institution elected to file as a subchapter C corporation under the Internal Revenue Code.

Section 3. That § 10-43-10.4 be amended to read as follows:

10-43-10.4. No carryback of net operating losses or capital losses may be deducted from net income for state tax purposes.

Section 4. That chapter 10-43 be amended by adding thereto a NEW SECTION to read as follows:

A deduction may be made for a carryforward of a net operating loss or capital loss. The deduction is limited to the seven tax years immediately following the tax year of the loss. Net income may not be less than zero prior to making the adjustments provided for in §§ 10-43-10.2 and 10-43-10.3 because of a deduction taken for losses not incurred during the tax year for which the return is being filed.

The provisions of this section only apply to net operating losses or capital losses incurred on or after January 1, 2015.

Section 5. That ARSD 64:26:03:12 be repealed.

Section 6. The effective date of this Act is January 1, 2015.

An Act to revise certain bank franchise tax provisions regarding net income and net operating losses.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1200

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Chief Clerk

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_____
Speaker of the House

Attest:

_____
Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1200
File No. ____
Chapter No. _____

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Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State