

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1237

Introduced by Brewer, 43; Albrecht, 17; Linehan, 39; Murman, 38.

Read first time January 20, 2022

Committee:

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2717 and 77-2734.03, Revised Statutes Cumulative Supplement,
- 3 2020, and section 77-2715.07, Revised Statutes Supplement, 2021; to
- 4 adopt the Opportunity Scholarships Act and the Nebraska Child Care
- 5 Contribution Tax Credit Act; to harmonize provisions; to provide
- 6 severability; and to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 13 of this act shall be known and may be
2 cited as the Opportunity Scholarships Act.

3 Sec. 2. The Legislature finds that:

4 (1) Enabling the greatest number of parents and legal guardians to
5 choose among quality educational opportunities for children will improve
6 the quality of education available to all children;

7 (2) Privately operated elementary and secondary schools in Nebraska
8 satisfy the state's requirements for legal operation and provide quality
9 educational opportunities for children;

10 (3) For parents and legal guardians who are paying taxes in support
11 of public elementary and secondary schools, choosing privately operated
12 schools for their children can be a financial burden because typically
13 these parents and legal guardians will be paying twice for education
14 through tuition and taxes;

15 (4) Parents and legal guardians of limited means are less able to
16 choose among quality educational opportunities for their children;

17 (5) Making it possible for more parents and legal guardians to be
18 able to choose privately operated schools reduces publicly funded
19 educational costs and benefits Nebraska taxpayers; and

20 (6) It is in the best interests of the State of Nebraska and its
21 citizens to encourage individuals and businesses to support organizations
22 that financially assist parents and legal guardians who want to enroll
23 their children in privately operated elementary and secondary schools,
24 and such encouragement can be accomplished through the use of tax
25 credits.

26 Sec. 3. For purposes of the Opportunity Scholarships Act:

27 (1) Department means the Department of Revenue;

28 (2) Education scholarship means a financial grant-in-aid to be used
29 to pay all or part of the tuition and fees for attending a qualified
30 school and includes any tuition grants;

31 (3) Eligible student means a resident of Nebraska who:

1 (a) Is a dependent member of a household that, for the most recently
2 concluded calendar year before the student receives an education
3 scholarship pursuant to the act, has a gross income which does not exceed
4 the income indicated in the income eligibility guidelines for reduced
5 price meals under the National School Lunch Program in 7 C.F.R. part 210,
6 as such part existed on January 1, 2022; and

7 (b)(i) Is receiving an education scholarship for the first time and
8 is (A) entering kindergarten or ninth grade in a qualified school or (B)
9 transferring from a public school at which the student was enrolled for
10 at least one semester immediately preceding the first semester for which
11 the student receives an education scholarship to a qualified school and
12 is entering any of grades kindergarten through twelve;

13 (ii) Has previously received an education scholarship and is
14 continuing education at a qualified school until such student graduates
15 from high school or reaches twenty-one years of age, whichever comes
16 first; or

17 (iii) Is the sibling of a student who is receiving an education
18 scholarship and resides in the same household as such student;

19 (4) Qualified school means any nongovernmental, privately operated
20 elementary or secondary school located in this state that (a) is operated
21 not for profit, (b) complies with the antidiscrimination provisions of 42
22 U.S.C. 1981 as such section existed on January 1, 2022, (c) complies with
23 all health and life safety laws or codes that apply to privately operated
24 schools, and (d) fulfills the applicable accreditation or approval
25 requirements established by the State Board of Education pursuant to
26 section 79-318;

27 (5) Scholarship-granting organization means a charitable
28 organization in this state that is (a) exempt from federal income
29 taxation pursuant to section 501(c)(3) of the Internal Revenue Code of
30 1986, as amended, and (b) certified pursuant to section 4 of this act to
31 provide tax-credit-supported education scholarships to eligible students

1 to assist them in attending qualified schools; and

2 (6) Tuition means any amount charged by a qualified school for
3 enrollment in its instructional program. Tuition shall not exceed the
4 full cost of educating an eligible student at such qualified school.

5 Sec. 4. (1) An organization may apply to the department to become
6 certified as a scholarship-granting organization under the Opportunity
7 Scholarships Act. An organization shall obtain such certification prior
8 to providing any education scholarships to eligible students under the
9 act. The applicant shall provide the department with sufficient
10 information to show:

11 (a) That the applicant is exempt from federal income taxation under
12 section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

13 (b) That the applicant will offer one or more education scholarship
14 programs for eligible students;

15 (c) That the applicant will be able to comply with the requirements
16 of section 10 of this act;

17 (d) That the applicant will provide education scholarships for
18 eligible students without limiting education scholarship availability to
19 only one qualified school;

20 (e) That the applicant will give first priority to eligible students
21 who received an education scholarship from an eligible scholarship-
22 granting organization during the previous school year and then to new
23 applicants whose household income levels do not exceed one hundred
24 eighty-five percent of the federal poverty level or who are in foster
25 care or out-of-home care;

26 (f) That the applicant will limit the maximum scholarship amount
27 awarded to any student to the cost of tuition and fees at the qualified
28 school such student attends; and

29 (g) That the applicant will limit scholarship amounts awarded to
30 students in a manner that assures that the average of the scholarship
31 amounts awarded per student does not exceed seventy-five percent of the

1 statewide average general fund operating expenditures per formula student
2 for the most recently available complete data year as such terms are
3 defined in section 79-1003.

4 (2) If the applicant meets the requirements of this section, the
5 department shall certify it as a scholarship-granting organization for
6 tax-credit purposes under the Opportunity Scholarships Act. Such
7 certification is subject to revocation by the department if the
8 scholarship-granting organization subsequently fails to fulfill the
9 requirements of this section or section 10 of this act.

10 Sec. 5. (1) An individual taxpayer who makes one or more cash
11 contributions to one or more scholarship-granting organizations during a
12 tax year shall be eligible for a credit against the income tax due under
13 the Nebraska Revenue Act of 1967. The credit shall be equal to fifty
14 percent of the total amount of such contributions made during the tax
15 year, except that the credit shall not exceed twenty-five thousand
16 dollars or fifty percent of the taxpayer's state income tax liability for
17 such tax year, whichever is less. A taxpayer may only claim a credit
18 pursuant to this section for the portion of the contribution that was not
19 claimed as a charitable contribution under the Internal Revenue Code.

20 (2) Taxpayers who are married but file separate returns for a tax
21 year in which they could have filed a joint return may each claim only
22 one-half of the tax credit that would otherwise have been allowed for a
23 joint return.

24 (3) The tax credit allowed under this section shall be a
25 nonrefundable credit. Any amount of the credit that is unused may be
26 carried forward and applied against the taxpayer's income tax liability
27 for the next five years immediately following the tax year in which the
28 credit is first allowed. The tax credit cannot be carried back.

29 (4) The taxpayer may not designate all or any part of the
30 contribution to a scholarship-granting organization for the benefit of
31 any eligible student specifically identified by the taxpayer.

1 (5) The tax credit allowed under this section is subject to section
2 9 of this act.

3 (6) The tax credit allowed under this section may be earned for tax
4 years beginning or deemed to begin on or after January 1, 2023, and
5 before January 1, 2028.

6 Sec. 6. (1) Any partnership, limited liability company, or
7 corporation having an election in effect under subchapter S of the
8 Internal Revenue Code of 1986, as amended, that (a) is carrying on any
9 trade or business for which deductions would be allowed under section 162
10 of the Internal Revenue Code of 1986, as amended, or is carrying on any
11 rental activity and (b) makes one or more cash contributions to one or
12 more scholarship-granting organizations during a tax year shall be
13 eligible for a credit against the income tax due under the Nebraska
14 Revenue Act of 1967. The credit shall be equal to fifty percent of the
15 total amount of such contributions made during the tax year, except that
16 the credit shall not exceed twenty-five thousand dollars or fifty percent
17 of the taxpayer's state income tax liability for such tax year, whichever
18 is less. A taxpayer may only claim a credit pursuant to this section for
19 the portion of the contribution that was not claimed as a charitable
20 contribution under the Internal Revenue Code. The credit shall be
21 attributed to each partner, member, or shareholder in the same proportion
22 used to report the partnership's, limited liability company's, or
23 subchapter S corporation's income or loss for income tax purposes.

24 (2) The tax credit allowed under this section shall be a
25 nonrefundable credit. Any amount of the tax credit that is unused may be
26 carried forward and applied against the taxpayer's income tax liability
27 for the next five years immediately following the tax year in which the
28 credit is first allowed. The tax credit cannot be carried back.

29 (3) The taxpayer may not designate all or any part of the
30 contribution to a scholarship-granting organization for the benefit of
31 any eligible student specifically identified by the taxpayer.

1 (4) The tax credit allowed under this section is subject to section
2 9 of this act.

3 (5) The tax credit allowed under this section may be earned for tax
4 years beginning or deemed to begin on or after January 1, 2023, and
5 before January 1, 2028.

6 Sec. 7. (1) An estate or trust which makes one or more cash
7 contributions to one or more scholarship-granting organizations during a
8 tax year shall be eligible for a credit against the income tax due under
9 the Nebraska Revenue Act of 1967. The credit shall be equal to fifty
10 percent of the total amount of such contributions made during the tax
11 year, except that the credit shall not exceed twenty-five thousand
12 dollars or fifty percent of the taxpayer's state income tax liability for
13 such tax year, whichever is less. A taxpayer may only claim a credit
14 pursuant to this section for the portion of the contribution that was not
15 claimed as a charitable contribution under the Internal Revenue Code. Any
16 credit not used by the estate or trust may be attributed to each
17 beneficiary of the estate or trust in the same proportion used to report
18 the beneficiary's income from the estate or trust for income tax
19 purposes.

20 (2) The tax credit allowed under this section shall be a
21 nonrefundable credit. Any amount of the tax credit that is unused may be
22 carried forward and applied against the taxpayer's income tax liability
23 for the next five years immediately following the tax year in which the
24 credit is first allowed. The tax credit cannot be carried back.

25 (3) The taxpayer may not designate all or any part of the
26 contribution to a scholarship-granting organization for the benefit of
27 any eligible student specifically identified by the taxpayer.

28 (4) The tax credit allowed under this section is subject to section
29 9 of this act.

30 (5) The tax credit allowed under this section may be earned for tax
31 years beginning or deemed to begin on or after January 1, 2023, and

1 before January 1, 2028.

2 Sec. 8. (1) A corporate taxpayer as defined in section 77-2734.04
3 which makes one or more cash contributions to one or more scholarship-
4 granting organizations during a tax year shall be eligible for a credit
5 against the income tax due under the Nebraska Revenue Act of 1967. The
6 credit shall be equal to fifty percent of the total amount of such
7 contributions made during the tax year, except that the credit shall not
8 exceed twenty-five thousand dollars or fifty percent of the taxpayer's
9 state income tax liability for such tax year, whichever is less. A
10 taxpayer may only claim a credit pursuant to this section for the portion
11 of the contribution that was not claimed as a charitable contribution
12 under the Internal Revenue Code.

13 (2) The tax credit allowed under this section shall be a
14 nonrefundable credit. Any amount of the tax credit that is unused may be
15 carried forward and applied against the taxpayer's income tax liability
16 for the next five years immediately following the tax year in which the
17 credit is first allowed. The tax credit cannot be carried back.

18 (3) The taxpayer may not designate all or any part of the
19 contribution to a scholarship-granting organization for the benefit of
20 any eligible student specifically identified by the taxpayer.

21 (4) The tax credit allowed under this section is subject to section
22 9 of this act.

23 (5) The tax credit allowed under this section may be earned for tax
24 years beginning or deemed to begin on or after January 1, 2023, and
25 before January 1, 2028.

26 Sec. 9. (1) Prior to making a contribution to a scholarship-
27 granting organization, any taxpayer desiring to claim a tax credit under
28 the Opportunity Scholarships Act shall notify the scholarship-granting
29 organization of the taxpayer's intent to make a contribution and the
30 amount to be claimed as a tax credit. Upon receiving each such
31 notification, the scholarship-granting organization shall notify the

1 department of the intended tax credit amount. If the department
2 determines that the intended tax credit amount in the notification would
3 exceed the limit specified in subsection (3) of this section, the
4 department shall notify the scholarship-granting organization of its
5 determination within thirty days after receipt of the notification. The
6 scholarship-granting organization shall then promptly notify the taxpayer
7 of the department's determination that the intended tax credit amount in
8 the notification is not available. If an amount less than the amount
9 indicated in the notification is available for a tax credit, the
10 department shall notify the scholarship-granting organization of the
11 available amount and the scholarship-granting organization shall notify
12 the taxpayer of the available amount within three business days.

13 (2) In order to be allowed a tax credit as provided by the act, the
14 taxpayer shall make its contribution between thirty-one and sixty days
15 after notifying the scholarship-granting organization of the taxpayer's
16 intent to make a contribution. If the scholarship-granting organization
17 does not receive the contribution within the required time period, it
18 shall notify the department of such fact and the department shall no
19 longer include such amount when calculating whether the limit prescribed
20 in subsection (3) of this section has been exceeded. If the scholarship-
21 granting organization receives the contribution within the required time
22 period, it shall provide the taxpayer with a receipt for the
23 contribution. The receipt shall show the name and address of the
24 scholarship-granting organization, the date the scholarship-granting
25 organization was certified by the department in accordance with section 4
26 of this act, the name, address, and, if available, tax identification
27 number of the taxpayer making the contribution, the amount of the
28 contribution, and the date the contribution was received.

29 (3) The department shall consider notifications regarding intended
30 tax credit amounts in the order in which they are received to ascertain
31 whether the intended tax credit amounts are within the annual limit of

1 five million dollars.

2 (4) Once credits have reached the annual limit of five million
3 dollars for any calendar year, no additional credits shall be allowed for
4 such calendar year. Credits shall be prorated among the notifications
5 received on the day the annual limit is exceeded.

6 Sec. 10. (1) In order for a scholarship-granting organization to
7 remain certified under the Opportunity Scholarships Act, the scholarship-
8 granting organization shall allocate at least ninety percent of its
9 revenue for education scholarships and no more than ten percent of its
10 revenue shall be used or reserved for administrative costs.

11 (2) For purposes of this section, revenue is allocated when it is
12 expended or otherwise irrevocably encumbered for expenditure. The
13 percentage of funds allocated for education scholarships shall be
14 measured as a monthly average over the most recent twenty-four-month
15 period or, for a scholarship-granting organization that has been
16 certified for less than twenty-four months, over the period of time that
17 the scholarship-granting organization has been certified.

18 Sec. 11. (1) Each scholarship-granting organization shall annually
19 submit to the department no later than December 1 of each year an audited
20 financial information report for its most recent fiscal year certified by
21 an independent public accountant.

22 (2) Each scholarship-granting organization shall include with the
23 report submitted under subsection (1) of this section a summary
24 description of (a) its policies and procedures for awarding education
25 scholarships, (b) the number of eligible students receiving education
26 scholarships in the most recent fiscal year, (c) the total amount of
27 contributions received for education scholarships in the most recent
28 fiscal year, and (d) the total amount of education scholarships awarded
29 in the most recent fiscal year.

30 (3) The department shall electronically forward such reports and
31 summary descriptions to the Governor and the Legislature no later than

1 December 31 of each year.

2 Sec. 12. The Opportunity Scholarships Act shall not be construed as
3 granting any expanded or additional authority to the State of Nebraska to
4 control or influence the governance or policies of any qualified school
5 due to the fact that the qualified school admits and enrolls students who
6 receive education scholarships or as requiring any such qualified school
7 to admit or, once admitted, to continue the enrollment of any student
8 receiving an education scholarship.

9 Sec. 13. The department may adopt and promulgate rules and
10 regulations to carry out the Opportunity Scholarships Act.

11 Sec. 14. Sections 14 to 20 of this act shall be known and may be
12 cited as the Nebraska Child Care Contribution Tax Credit Act.

13 Sec. 15. The Legislature finds that COVID-19 has greatly impacted
14 the child care industry, and access to quality child care opportunities
15 is crucial to Nebraska's ongoing economic stability and growth.

16 Sec. 16. For purposes of the Nebraska Child Care Contribution Tax
17 Credit Act:

18 (1) Child means an individual who is twelve years of age or less;

19 (2) Child care and education provider means a person who owns or
20 operates an eligible child care and early childhood education program;

21 (3) Department means the Department of Revenue;

22 (4) Eligible child care and early childhood education program means
23 a program that:

24 (a) Is enrolled to participate in the quality rating and improvement
25 system developed under the Step Up to Quality Child Care Act;

26 (b) Is licensed as a family child care home I, family child care
27 home II, child care center, preschool, or school-age-only center; and

28 (c) Operates as a for-profit child care business or is a nonprofit
29 organization under the Internal Revenue Code of 1986;

30 (5) Intermediary means any organization that distributes funds for
31 the purpose of supporting an eligible child care and early childhood

1 education program;

2 (6) Qualifying contribution means a contribution in the form of
3 cash, check, cash equivalent, agricultural commodity, livestock, or
4 publicly traded security that is used for one or more of the purposes
5 described in subsection (4) of section 17 of this act. A contribution of
6 any other type of property or any service is not a qualifying
7 contribution; and

8 (7) Taxpayer means any person subject to the income tax imposed by
9 the Nebraska Revenue Act of 1986. The term includes resident and
10 nonresident individuals, estates, trusts, and corporations.

11 Sec. 17. (1) For taxable years beginning or deemed to begin on or
12 after January 1, 2023, and before January 1, 2028, under the Internal
13 Revenue Code of 1986, as amended, any taxpayer who makes a qualifying
14 contribution may apply to the department to receive a nonrefundable tax
15 credit against the income tax imposed by the Nebraska Revenue Act of
16 1967.

17 (2)(a) The credit shall be equal to either fifty percent or seventy-
18 five percent of the taxpayer's qualifying contribution made during the
19 taxable year, except that the credit for a taxpayer for any single
20 taxable year shall not exceed twenty-five thousand dollars or fifty
21 percent of the taxpayer's state income tax liability, whichever is less.

22 (b) The credit shall be equal to seventy-five percent of the
23 qualifying contribution if the eligible child care and early childhood
24 education program that receives the contribution has at least one child
25 enrolled in the child care subsidy program established pursuant to
26 section 68-1202 and the child care and education provider is actively
27 caring and billing for the child as verified by the Department of Health
28 and Human Services.

29 (c) The credit shall be equal to fifty percent of the qualifying
30 contribution if subdivision (2)(b) of this section does not apply.

31 (3) If a taxpayer does not use all of the credits earned for any

1 taxable year, the taxpayer may carry forward the unused credits for up to
2 five taxable years after the taxable year in which the credits were
3 earned. Credits shall not be carried back.

4 (4) In order to be considered a qualifying contribution, the
5 contribution must be:

6 (a) For the establishment or operation of an eligible child care and
7 early childhood education program;

8 (b) For the establishment of a registered grant or loan program for
9 parents requiring financial assistance for an eligible child care and
10 early childhood education program;

11 (c) To an early childhood collaborative or another intermediary for
12 the training, technical assistance, or mentorship of child care and
13 education providers;

14 (d) For the establishment or ongoing costs of an information
15 dissemination program that assists parents with information and referral
16 services for child care;

17 (e) To a for-profit child care business, including a family home
18 provider. The for-profit child care business must use the proceeds of a
19 qualifying contribution for (i) the acquisition or improvement of the
20 child care facilities or (ii) equipment; or

21 (f) To an intermediary for the establishment or operation of an
22 eligible child care and early childhood education program or a program
23 for parents requiring financial assistance for an eligible child care and
24 early childhood education program.

25 (5) A contribution shall not qualify for a credit under this section
26 if:

27 (a) The contribution is made to a child care provider in which the
28 taxpayer or a person related to the taxpayer has a financial interest
29 which would result in direct benefit to the taxpayer or related person;
30 or

31 (b) The contribution is made to a for-profit child care business and

1 is not directly invested in the acquisition or improvement of child care
2 facilities or equipment.

3 Sec. 18. (1) A taxpayer shall apply for the credit provided under
4 the Nebraska Child Care Contribution Tax Credit Act by submitting an
5 application to the department with the following information:

6 (a) Documentation to show that the contribution is a qualifying
7 contribution and meets the requirements provided in the act; and

8 (b) Any other documentation required by the department.

9 (2) If the department determines that the taxpayer qualifies for tax
10 credits under the act, the department shall approve the application and
11 certify the amount of credits approved to the taxpayer. The department
12 shall accept applications on an annual basis and shall consider the
13 applications in the order in which they are received. The department may
14 approve credits under this section until the total amount of credits
15 approved for the year equals five million dollars.

16 (3) The credits allowed under the act may be earned for taxable
17 years beginning or deemed to begin on or after January 1, 2023, and
18 before January 1, 2028.

19 Sec. 19. (1) If the department finds that a person has obtained a
20 credit by fraud or misrepresentation, the credits shall be disallowed and
21 the taxpayer's state income tax for the taxable year in which the credit
22 was claimed shall be increased by the amount necessary to recapture the
23 credit.

24 (2) Credits granted to a taxpayer, but later disallowed, may be
25 recovered by the department within three years after the end of the
26 taxable year in which the credit was claimed.

27 Sec. 20. The department may adopt and promulgate rules and
28 regulations to carry out the Nebraska Child Care Contribution Tax Credit
29 Act.

30 Sec. 21. Section 77-2715.07, Revised Statutes Supplement, 2021, is
31 amended to read:

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

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

6 (b) A credit for taxes paid to another state as provided in section
7 77-2730.

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

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

20 (b) For returns filed reporting federal adjusted gross income of
21 twenty-nine thousand dollars or less, a refundable credit equal to a
22 percentage of the federal credit allowable under section 21 of the
23 Internal Revenue Code of 1986, as amended, whether or not the federal
24 credit was limited by the federal tax liability. The percentage of the
25 federal credit shall be one hundred percent for incomes not greater than
26 twenty-two thousand dollars, and the percentage shall be reduced by ten
27 percent for each one thousand dollars, or fraction thereof, by which the
28 reported federal adjusted gross income exceeds twenty-two thousand
29 dollars, except that for taxable years beginning or deemed to begin on or
30 after January 1, 2015, such refundable credit shall be allowed only if
31 the individual would have received the federal credit allowed under

1 section 21 of the code after adding back in any carryforward of a net
2 operating loss that was deducted pursuant to such section in determining
3 eligibility for the federal credit;

4 (c) A refundable credit as provided in section 77-5209.01 for
5 individuals who qualify for an income tax credit as a qualified beginning
6 farmer or livestock producer under the Beginning Farmer Tax Credit Act
7 for all taxable years beginning or deemed to begin on or after January 1,
8 2006, under the Internal Revenue Code of 1986, as amended;

9 (d) A refundable credit for individuals who qualify for an income
10 tax credit under the Angel Investment Tax Credit Act, the Nebraska
11 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
12 and Development Act, or the Volunteer Emergency Responders Incentive Act;
13 and

14 (e) A refundable credit equal to ten percent of the federal credit
15 allowed under section 32 of the Internal Revenue Code of 1986, as
16 amended, except that for taxable years beginning or deemed to begin on or
17 after January 1, 2015, such refundable credit shall be allowed only if
18 the individual would have received the federal credit allowed under
19 section 32 of the code after adding back in any carryforward of a net
20 operating loss that was deducted pursuant to such section in determining
21 eligibility for the federal credit.

22 (3) There shall be allowed to all individuals as a nonrefundable
23 credit against the income tax imposed by the Nebraska Revenue Act of
24 1967:

25 (a) A credit for personal exemptions allowed under section
26 77-2716.01;

27 (b) A credit for contributions to certified community betterment
28 programs as provided in the Community Development Assistance Act. Each
29 partner, each shareholder of an electing subchapter S corporation, each
30 beneficiary of an estate or trust, or each member of a limited liability
31 company shall report his or her share of the credit in the same manner

1 and proportion as he or she reports the partnership, subchapter S
2 corporation, estate, trust, or limited liability company income;

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

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

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

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

10 (g) A credit as provided in the Affordable Housing Tax Credit Act; ~~and~~

11 (h) A credit as provided in the Opportunity Scholarships Act; and

12 (i) A credit as provided in the Nebraska Child Care Contribution Tax
13 Credit Act.

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

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

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

21 (c) A refundable credit for individuals who qualify for an income
22 tax credit as an owner of agricultural assets under the Beginning Farmer
23 Tax Credit Act for all taxable years beginning or deemed to begin on or
24 after January 1, 2009, under the Internal Revenue Code of 1986, as
25 amended. The credit allowed for each partner, shareholder, member, or
26 beneficiary of a partnership, corporation, limited liability company, or
27 estate or trust qualifying for an income tax credit as an owner of
28 agricultural assets under the Beginning Farmer Tax Credit Act shall be
29 equal to the partner's, shareholder's, member's, or beneficiary's portion
30 of the amount of tax credit distributed pursuant to subsection (6) of
31 section 77-5211.

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

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

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

24 (6) There shall be allowed to all individuals nonrefundable credits
25 against the income tax imposed by the Nebraska Revenue Act of 1967 as
26 provided in section 77-3604 and refundable credits against the income tax
27 imposed by the Nebraska Revenue Act of 1967 as provided in section
28 77-3605.

29 (7)(a) For taxable years beginning or deemed to begin on or after
30 January 1, 2020, and before January 1, 2026, under the Internal Revenue
31 Code of 1986, as amended, a nonrefundable credit against the income tax

1 imposed by the Nebraska Revenue Act of 1967 in the amount of five
2 thousand dollars shall be allowed to any individual who purchases a
3 residence during the taxable year if such residence:

4 (i) Is located within an area that has been declared an extremely
5 blighted area under section 18-2101.02;

6 (ii) Is the individual's primary residence; and

7 (iii) Was not purchased from a family member of the individual or a
8 family member of the individual's spouse.

9 (b) The credit provided in this subsection shall be claimed for the
10 taxable year in which the residence is purchased. If the individual
11 cannot fully utilize the credit for such year, the credit may be carried
12 forward to subsequent taxable years until fully utilized.

13 (c) No more than one credit may be claimed under this subsection
14 with respect to a single residence.

15 (d) The credit provided in this subsection shall be subject to
16 recapture by the Department of Revenue if the individual claiming the
17 credit sells or otherwise transfers the residence or quits using the
18 residence as his or her primary residence within five years after the end
19 of the taxable year in which the credit was claimed.

20 (e) For purposes of this subsection, family member means an
21 individual's spouse, child, parent, brother, sister, grandchild, or
22 grandparent, whether by blood, marriage, or adoption.

23 (8) There shall be allowed to all individuals refundable credits
24 against the income tax imposed by the Nebraska Revenue Act of 1967 as
25 provided in the Nebraska Property Tax Incentive Act and the Renewable
26 Chemical Production Tax Credit Act.

27 (9)(a) For taxable years beginning or deemed to begin on or after
28 January 1, 2022, under the Internal Revenue Code of 1986, as amended, a
29 refundable credit against the income tax imposed by the Nebraska Revenue
30 Act of 1967 shall be allowed to the parent of a stillborn child if:

31 (i) A fetal death certificate is filed pursuant to subsection (1) of

1 section 71-606 for such child;

2 (ii) Such child had advanced to at least the twentieth week of
3 gestation; and

4 (iii) Such child would have been a dependent of the individual
5 claiming the credit.

6 (b) The amount of the credit shall be two thousand dollars.

7 (c) The credit shall be allowed for the taxable year in which the
8 stillbirth occurred.

9 Sec. 22. Section 77-2717, Revised Statutes Cumulative Supplement,
10 2020, is amended to read:

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

1 (ii) For taxable years beginning or deemed to begin on or after
2 January 1, 2014, the tax imposed on all resident estates and trusts shall
3 be a percentage of the federal taxable income of such estates and trusts
4 as modified in section 77-2716, plus a percentage of the federal tax on
5 premature or lump-sum distributions from qualified retirement plans. The
6 additional taxes shall be recomputed by substituting Nebraska taxable
7 income for federal taxable income and applying Nebraska rates to the
8 result. The credits provided in the Nebraska Advantage Microenterprise
9 Tax Credit Act and the Nebraska Advantage Research and Development Act
10 shall be allowed as a reduction in the income tax due. A refundable
11 income tax credit shall be allowed for all resident estates and trusts
12 under the Angel Investment Tax Credit Act, the Nebraska Advantage
13 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
14 Development Act, the Nebraska Property Tax Incentive Act, and the
15 Renewable Chemical Production Tax Credit Act. A nonrefundable income tax
16 credit shall be allowed for all resident estates and trusts as provided
17 in the Nebraska Job Creation and Mainstreet Revitalization Act, the New
18 Markets Job Growth Investment Act, the School Readiness Tax Credit Act,
19 the Affordable Housing Tax Credit Act, the Opportunity Scholarships Act,
20 the Nebraska Child Care Contribution Tax Credit Act, and section
21 77-27,238.

22 (b) The tax imposed on all nonresident estates and trusts shall be
23 the portion of the tax imposed on resident estates and trusts which is
24 attributable to the income derived from sources within this state. The
25 tax which is attributable to income derived from sources within this
26 state shall be determined by multiplying the liability to this state for
27 a resident estate or trust with the same total income by a fraction, the
28 numerator of which is the nonresident estate's or trust's Nebraska income
29 as determined by sections 77-2724 and 77-2725 and the denominator of
30 which is its total federal income after first adjusting each by the
31 amounts provided in section 77-2716. The federal credit for prior year

1 minimum tax, after the recomputations required by the Nebraska Revenue
2 Act of 1967, reduced by the percentage of the total income which is
3 attributable to income from sources outside this state, and the credits
4 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
5 Nebraska Advantage Research and Development Act shall be allowed as a
6 reduction in the income tax due. A refundable income tax credit shall be
7 allowed for all nonresident estates and trusts under the Angel Investment
8 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
9 the Nebraska Advantage Research and Development Act, the Nebraska
10 Property Tax Incentive Act, and the Renewable Chemical Production Tax
11 Credit Act. A nonrefundable income tax credit shall be allowed for all
12 nonresident estates and trusts as provided in the Nebraska Job Creation
13 and Mainstreet Revitalization Act, the New Markets Job Growth Investment
14 Act, the School Readiness Tax Credit Act, the Affordable Housing Tax
15 Credit Act, the Opportunity Scholarships Act, the Nebraska Child Care
16 Contribution Tax Credit Act, and section 77-27,238.

17 (2) In all instances wherein a fiduciary income tax return is
18 required under the provisions of the Internal Revenue Code, a Nebraska
19 fiduciary return shall be filed, except that a fiduciary return shall not
20 be required to be filed regarding a simple trust if all of the trust's
21 beneficiaries are residents of the State of Nebraska, all of the trust's
22 income is derived from sources in this state, and the trust has no
23 federal tax liability. The fiduciary shall be responsible for making the
24 return for the estate or trust for which he or she acts, whether the
25 income be taxable to the estate or trust or to the beneficiaries thereof.
26 The fiduciary shall include in the return a statement of each
27 beneficiary's distributive share of net income when such income is
28 taxable to such beneficiaries.

29 (3) The beneficiaries of such estate or trust who are residents of
30 this state shall include in their income their proportionate share of
31 such estate's or trust's federal income and shall reduce their Nebraska

1 tax liability by their proportionate share of the credits as provided in
2 the Angel Investment Tax Credit Act, the Nebraska Advantage
3 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
4 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
5 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
6 Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Property
7 Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, the
8 Opportunity Scholarships Act, the Nebraska Child Care Contribution Tax
9 Credit Act, and section 77-27,238. There shall be allowed to a
10 beneficiary a refundable income tax credit under the Beginning Farmer Tax
11 Credit Act for all taxable years beginning or deemed to begin on or after
12 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

13 (4) If any beneficiary of such estate or trust is a nonresident
14 during any part of the estate's or trust's taxable year, he or she shall
15 file a Nebraska income tax return which shall include (a) in Nebraska
16 adjusted gross income that portion of the estate's or trust's Nebraska
17 income, as determined under sections 77-2724 and 77-2725, allocable to
18 his or her interest in the estate or trust and (b) a reduction of the
19 Nebraska tax liability by his or her proportionate share of the credits
20 as provided in the Angel Investment Tax Credit Act, the Nebraska
21 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
22 and Development Act, the Nebraska Job Creation and Mainstreet
23 Revitalization Act, the New Markets Job Growth Investment Act, the School
24 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
25 Nebraska Property Tax Incentive Act, the Renewable Chemical Production
26 Tax Credit Act, the Opportunity Scholarships Act, the Nebraska Child Care
27 Contribution Tax Credit Act, and section 77-27,238 and shall execute and
28 forward to the fiduciary, on or before the original due date of the
29 Nebraska fiduciary return, an agreement which states that he or she will
30 file a Nebraska income tax return and pay income tax on all income
31 derived from or connected with sources in this state, and such agreement

1 shall be attached to the Nebraska fiduciary return for such taxable year.

2 (5) In the absence of the nonresident beneficiary's executed
3 agreement being attached to the Nebraska fiduciary return, the estate or
4 trust shall remit a portion of such beneficiary's income which was
5 derived from or attributable to Nebraska sources with its Nebraska return
6 for the taxable year. For taxable years beginning or deemed to begin
7 before January 1, 2013, the amount of remittance, in such instance, shall
8 be the highest individual income tax rate determined under section
9 77-2715.02 multiplied by the nonresident beneficiary's share of the
10 estate or trust income which was derived from or attributable to sources
11 within this state. For taxable years beginning or deemed to begin on or
12 after January 1, 2013, the amount of remittance, in such instance, shall
13 be the highest individual income tax rate determined under section
14 77-2715.03 multiplied by the nonresident beneficiary's share of the
15 estate or trust income which was derived from or attributable to sources
16 within this state. The amount remitted shall be allowed as a credit
17 against the Nebraska income tax liability of the beneficiary.

18 (6) The Tax Commissioner may allow a nonresident beneficiary to not
19 file a Nebraska income tax return if the nonresident beneficiary's only
20 source of Nebraska income was his or her share of the estate's or trust's
21 income which was derived from or attributable to sources within this
22 state, the nonresident did not file an agreement to file a Nebraska
23 income tax return, and the estate or trust has remitted the amount
24 required by subsection (5) of this section on behalf of such nonresident
25 beneficiary. The amount remitted shall be retained in satisfaction of the
26 Nebraska income tax liability of the nonresident beneficiary.

27 (7) For purposes of this section, unless the context otherwise
28 requires, simple trust shall mean any trust instrument which (a) requires
29 that all income shall be distributed currently to the beneficiaries, (b)
30 does not allow amounts to be paid, permanently set aside, or used in the
31 tax year for charitable purposes, and (c) does not distribute amounts

1 allocated in the corpus of the trust. Any trust which does not qualify as
2 a simple trust shall be deemed a complex trust.

3 (8) For purposes of this section, any beneficiary of an estate or
4 trust that is a grantor trust of a nonresident shall be disregarded and
5 this section shall apply as though the nonresident grantor was the
6 beneficiary.

7 Sec. 23. Section 77-2734.03, Revised Statutes Cumulative Supplement,
8 2020, is amended to read:

9 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
10 1997, any (i) insurer paying a tax on premiums and assessments pursuant
11 to section 77-908 or 81-523, (ii) electric cooperative organized under
12 the Joint Public Power Authority Act, or (iii) credit union shall be
13 credited, in the computation of the tax due under the Nebraska Revenue
14 Act of 1967, with the amount paid during the taxable year as taxes on
15 such premiums and assessments and taxes in lieu of intangible tax.

16 (b) For taxable years commencing on or after January 1, 1997, any
17 insurer paying a tax on premiums and assessments pursuant to section
18 77-908 or 81-523, any electric cooperative organized under the Joint
19 Public Power Authority Act, or any credit union shall be credited, in the
20 computation of the tax due under the Nebraska Revenue Act of 1967, with
21 the amount paid during the taxable year as (i) taxes on such premiums and
22 assessments included as Nebraska premiums and assessments under section
23 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

31 (2) There shall be allowed to corporate taxpayers a tax credit for

1 contributions to community betterment programs as provided in the
2 Community Development Assistance Act.

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

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

11 (5) There shall be allowed to corporate taxpayers refundable income
12 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act,
13 the Nebraska Advantage Research and Development Act, the Nebraska
14 Property Tax Incentive Act, and the Renewable Chemical Production Tax
15 Credit Act.

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

19 (7) There shall be allowed to corporate taxpayers a nonrefundable
20 income tax credit as provided in the Nebraska Job Creation and Mainstreet
21 Revitalization Act, the New Markets Job Growth Investment Act, the School
22 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
23 Opportunity Scholarships Act, the Nebraska Child Care Contribution Tax
24 Credit Act, and section 77-27,238.

25 Sec. 24. If any section in this act or any part of any section is
26 declared invalid or unconstitutional, the declaration shall not affect
27 the validity or constitutionality of the remaining portions.

28 Sec. 25. Original sections 77-2717 and 77-2734.03, Revised Statutes
29 Cumulative Supplement, 2020, and section 77-2715.07, Revised Statutes
30 Supplement, 2021, are repealed.