

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 364

Introduced by Linehan, 39; Albrecht, 17; Bostelman, 23; Brewer, 43;
Clements, 2; Erdman, 47; Geist, 25; Halloran, 33; Hansen,
B., 16; Lindstrom, 18; Lowe, 37; McDonnell, 5; Murman, 38;
Sanders, 45; Slama, 1.

Read first time January 13, 2021

Committee:

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Cumulative
- 3 Supplement, 2020; to adopt the Opportunity Scholarships Act; to
- 4 provide for tax credits; to harmonize provisions; to provide an
- 5 operative date; to provide for severability; and to repeal the
- 6 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, 2021; 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, 2021, (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. Except as otherwise provided in the
14 Opportunity Scholarships Act, the amount of the credit shall be equal to
15 the lesser of (a) the total amount of such contributions made during the
16 tax year or (b) fifty percent of the income tax liability of such
17 taxpayer for the tax year. A taxpayer may only claim a credit pursuant to
18 this section for the portion of the contribution that was not claimed as
19 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 Sec. 6. (1) Any partnership, limited liability company, or
4 corporation having an election in effect under subchapter S of the
5 Internal Revenue Code of 1986, as amended, that (a) is carrying on any
6 trade or business for which deductions would be allowed under section 162
7 of the Internal Revenue Code of 1986, as amended, or is carrying on any
8 rental activity and (b) makes one or more cash contributions to one or
9 more scholarship-granting organizations during a tax year shall be
10 eligible for a credit against the income tax due under the Nebraska
11 Revenue Act of 1967. Except as otherwise provided in the Opportunity
12 Scholarships Act, the amount of the credit shall be equal to the lesser
13 of (a) the total amount of such contributions made during the tax year or
14 (b) fifty percent of the income tax liability of such taxpayer for the
15 tax year. A taxpayer may only claim a credit pursuant to this section for
16 the portion of the contribution that was not claimed as a charitable
17 contribution under the Internal Revenue Code. The credit shall be
18 attributed to each partner, member, or shareholder in the same proportion
19 used to report the partnership's, limited liability company's, or
20 subchapter S corporation's income or loss for income tax purposes.

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

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

29 (4) The tax credit allowed under this section is subject to section
30 9 of this act.

31 Sec. 7. (1) An estate or trust which makes one or more cash

1 contributions to one or more scholarship-granting organizations during a
2 tax year shall be eligible for a credit against the income tax due under
3 the Nebraska Revenue Act of 1967. Except as otherwise provided in the
4 Opportunity Scholarships Act, the amount of the credit shall be equal to
5 the lesser of (a) the total amount of such contributions made during the
6 tax year or (b) fifty percent of the income tax liability of such
7 taxpayer for the tax year. A taxpayer may only claim a credit pursuant to
8 this section for the portion of the contribution that was not claimed as
9 a charitable contribution under the Internal Revenue Code. Any credit not
10 used by the estate or trust may be attributed to each beneficiary of the
11 estate or trust in the same proportion used to report the beneficiary's
12 income from the estate or trust for income tax purposes.

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 Sec. 8. (1) A corporate taxpayer as defined in section 77-2734.04
24 which makes one or more cash contributions to one or more scholarship-
25 granting organizations during a tax year shall be eligible for a credit
26 against the income tax due under the Nebraska Revenue Act of 1967. Except
27 as otherwise provided in the Opportunity Scholarships Act, the amount of
28 the credit shall be equal to the lesser of (a) the total amount of such
29 contributions made during the tax year or (b) fifty percent of the income
30 tax liability of such taxpayer for the tax year. A taxpayer may only
31 claim a credit pursuant to this section for the portion of the

1 contribution that was not claimed as a charitable contribution under the
2 Internal Revenue Code.

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

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

11 (4) The tax credit allowed under this section is subject to section
12 9 of this act.

13 Sec. 9. (1) Prior to making a contribution to a scholarship-
14 granting organization, any taxpayer desiring to claim a tax credit under
15 the Opportunity Scholarships Act shall notify the scholarship-granting
16 organization of the taxpayer's intent to make a contribution and the
17 amount to be claimed as a tax credit. Upon receiving each such
18 notification, the scholarship-granting organization shall notify the
19 department of the intended tax credit amount. If the department
20 determines that the intended tax credit amount in the notification would
21 exceed the limit specified in subsection (3) of this section, the
22 department shall notify the scholarship-granting organization of its
23 determination within thirty days after receipt of the notification. The
24 scholarship-granting organization shall then promptly notify the taxpayer
25 of the department's determination that the intended tax credit amount in
26 the notification is not available. If an amount less than the amount
27 indicated in the notification is available for a tax credit, the
28 department shall notify the scholarship-granting organization of the
29 available amount and the scholarship-granting organization shall notify
30 the taxpayer of the available amount within three business days.

31 (2) In order to be allowed a tax credit as provided by the act, the

1 taxpayer shall make its contribution between thirty-one and sixty days
2 after notifying the scholarship-granting organization of the taxpayer's
3 intent to make a contribution. If the scholarship-granting organization
4 does not receive the contribution within the required time period, it
5 shall notify the department of such fact and the department shall no
6 longer include such amount when calculating whether the limit prescribed
7 in subsection (3) of this section has been exceeded. If the scholarship-
8 granting organization receives the contribution within the required time
9 period, it shall provide the taxpayer with a receipt for the
10 contribution. The receipt shall show the name and address of the
11 scholarship-granting organization, the date the scholarship-granting
12 organization was certified by the department in accordance with section 4
13 of this act, the name, address, and, if available, tax identification
14 number of the taxpayer making the contribution, the amount of the
15 contribution, and the date the contribution was received.

16 (3) The department shall consider notifications regarding intended
17 tax credit amounts in the order in which they are received to ascertain
18 whether the intended tax credit amounts are within the annual limit
19 provided in this subsection. The annual limit on the total amount of tax
20 credits for calendar year 2022 shall be ten million dollars. The annual
21 limit on the total amount of tax credits for calendar year 2023 and each
22 calendar year thereafter shall be calculated by taking the annual limit
23 from the prior calendar year and then multiplying such amount by:

24 (a) One hundred twenty-five percent if the intended tax credit
25 amounts in the prior calendar year exceeded ninety percent of the annual
26 limit applicable to that calendar year; or

27 (b) One hundred percent if the intended tax credit amounts in the
28 prior calendar year did not exceed ninety percent of the annual limit
29 applicable to that calendar year.

30 (4) The State Department of Education and the Department of Revenue
31 shall publish on their respective web sites information identifying the

1 annual limit when it is increased pursuant to subsection (3) of this
2 section.

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

7 Sec. 10. (1) In order for a scholarship-granting organization to
8 remain certified under the Opportunity Scholarships Act, the scholarship-
9 granting organization shall allocate its revenue as follows:

10 (a) If the annual limit on tax credits under section 9 of this act
11 is less than twenty million dollars, the scholarship-granting
12 organization shall allocate at least ninety percent of its revenue for
13 education scholarships and no more than ten percent of its revenue shall
14 be used or reserved for administrative costs; or

15 (b) If the annual limit on tax credits under section 9 of this act
16 is twenty million dollars or more, the scholarship-granting organization
17 shall allocate at least ninety-five percent of its revenue for education
18 scholarships, and no more than five percent of its revenue shall be used
19 or reserved for administrative costs.

20 (2) For purposes of this section, revenue is allocated when it is
21 expended or otherwise irrevocably encumbered for expenditure. The
22 percentage of funds allocated for education scholarships shall be
23 measured as a monthly average over the most recent twenty-four-month
24 period or, for a scholarship-granting organization that has been
25 certified for less than twenty-four months, over the period of time that
26 the scholarship-granting organization has been certified.

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

31 (2) Each scholarship-granting organization shall include with the

1 report submitted under subsection (1) of this section a summary
2 description of (a) its policies and procedures for awarding education
3 scholarships, (b) the number of eligible students receiving education
4 scholarships in the most recent fiscal year, (c) the total amount of
5 contributions received for education scholarships in the most recent
6 fiscal year, and (d) the total amount of education scholarships awarded
7 in the most recent fiscal year.

8 (3) The department shall electronically forward such reports and
9 summary descriptions to the Governor and the Legislature no later than
10 December 31 of each year.

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

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

20 Sec. 14. Section 77-2715.07, Revised Statutes Cumulative Supplement,
21 2020, is amended to read:

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

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

27 (b) A credit for taxes paid to another state as provided in section
28 77-2730.

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

31 (a) For returns filed reporting federal adjusted gross incomes of

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

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

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

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

1 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
2 and Development Act, or the Volunteer Emergency Responders Incentive Act;
3 and

4 (e) A refundable credit equal to ten percent of the federal credit
5 allowed under section 32 of the Internal Revenue Code of 1986, as
6 amended, 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 32 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 (3) There shall be allowed to all individuals as a nonrefundable
13 credit against the income tax imposed by the Nebraska Revenue Act of
14 1967:

15 (a) A credit for personal exemptions allowed under section
16 77-2716.01;

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

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

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

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

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

31 (g) A credit as provided in the Affordable Housing Tax Credit Act;

1 and -

2 (h) A credit as provided in the Opportunity Scholarships Act.

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

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

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

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

21 (5)(a) For all taxable years beginning on or after January 1, 2007,
22 and before January 1, 2009, under the Internal Revenue Code of 1986, as
23 amended, there shall be allowed to each partner, shareholder, member, or
24 beneficiary of a partnership, subchapter S corporation, limited liability
25 company, or estate or trust a nonrefundable credit against the income tax
26 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the
27 partner's, shareholder's, member's, or beneficiary's portion of the
28 amount of franchise tax paid to the state under sections 77-3801 to
29 77-3807 by a financial institution.

30 (b) For all taxable years beginning on or after January 1, 2009,
31 under the Internal Revenue Code of 1986, as amended, there shall be

1 allowed to each partner, shareholder, member, or beneficiary of a
2 partnership, subchapter S corporation, limited liability company, or
3 estate or trust a nonrefundable credit against the income tax imposed by
4 the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's,
5 member's, or beneficiary's portion of the amount of franchise tax paid to
6 the state under sections 77-3801 to 77-3807 by a financial institution.

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

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

18 (7)(a) For taxable years beginning or deemed to begin on or after
19 January 1, 2020, and before January 1, 2026, under the Internal Revenue
20 Code of 1986, as amended, a nonrefundable credit against the income tax
21 imposed by the Nebraska Revenue Act of 1967 in the amount of five
22 thousand dollars shall be allowed to any individual who purchases a
23 residence during the taxable year if such residence:

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

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

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

29 (b) The credit provided in this subsection shall be claimed for the
30 taxable year in which the residence is purchased. If the individual
31 cannot fully utilize the credit for such year, the credit may be carried

1 forward to subsequent taxable years until fully utilized.

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

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

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

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

16 Sec. 15. Section 77-2717, Revised Statutes Cumulative Supplement,
17 2020, is amended to read:

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

1 and the Nebraska Advantage Research and Development Act shall be allowed
2 as a reduction in the income tax due. A refundable income tax credit
3 shall be allowed for all resident estates and trusts under the Angel
4 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
5 Credit Act, and the Nebraska Advantage Research and Development Act. A
6 nonrefundable income tax credit shall be allowed for all resident estates
7 and trusts as provided in the New Markets Job Growth Investment Act.

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

28 (b) The tax imposed on all nonresident estates and trusts shall be
29 the portion of the tax imposed on resident estates and trusts which is
30 attributable to the income derived from sources within this state. The
31 tax which is attributable to income derived from sources within this

1 state shall be determined by multiplying the liability to this state for
2 a resident estate or trust with the same total income by a fraction, the
3 numerator of which is the nonresident estate's or trust's Nebraska income
4 as determined by sections 77-2724 and 77-2725 and the denominator of
5 which is its total federal income after first adjusting each by the
6 amounts provided in section 77-2716. The federal credit for prior year
7 minimum tax, after the recomputations required by the Nebraska Revenue
8 Act of 1967, reduced by the percentage of the total income which is
9 attributable to income from sources outside this state, and the credits
10 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
11 Nebraska Advantage Research and Development Act shall be allowed as a
12 reduction in the income tax due. A refundable income tax credit shall be
13 allowed for all nonresident estates and trusts under the Angel Investment
14 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
15 the Nebraska Advantage Research and Development Act, the Nebraska
16 Property Tax Incentive Act, and the Renewable Chemical Production Tax
17 Credit Act. A nonrefundable income tax credit shall be allowed for all
18 nonresident estates and trusts as provided in the Nebraska Job Creation
19 and Mainstreet Revitalization Act, the New Markets Job Growth Investment
20 Act, the School Readiness Tax Credit Act, the Affordable Housing Tax
21 Credit Act, the Opportunity Scholarships Act, and section 77-27,238.

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

1 beneficiary's distributive share of net income when such income is
2 taxable to such beneficiaries.

3 (3) The beneficiaries of such estate or trust who are residents of
4 this state shall include in their income their proportionate share of
5 such estate's or trust's federal income and shall reduce their Nebraska
6 tax liability by their proportionate share of the credits as provided in
7 the Angel Investment Tax Credit Act, the Nebraska Advantage
8 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
9 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
10 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
11 Credit Act, the Affordable Housing Tax Credit Act, the Nebraska Property
12 Tax Incentive Act, the Renewable Chemical Production Tax Credit Act, the
13 Opportunity Scholarships Act, and section 77-27,238. There shall be
14 allowed to a beneficiary a refundable income tax credit under the
15 Beginning Farmer Tax Credit Act for all taxable years beginning or deemed
16 to begin on or after January 1, 2001, under the Internal Revenue Code of
17 1986, as amended.

18 (4) If any beneficiary of such estate or trust is a nonresident
19 during any part of the estate's or trust's taxable year, he or she shall
20 file a Nebraska income tax return which shall include (a) in Nebraska
21 adjusted gross income that portion of the estate's or trust's Nebraska
22 income, as determined under sections 77-2724 and 77-2725, allocable to
23 his or her interest in the estate or trust and (b) a reduction of the
24 Nebraska tax liability by his or her proportionate share of the credits
25 as provided in the Angel Investment Tax Credit Act, the Nebraska
26 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
27 and Development Act, the Nebraska Job Creation and Mainstreet
28 Revitalization Act, the New Markets Job Growth Investment Act, the School
29 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
30 Nebraska Property Tax Incentive Act, the Renewable Chemical Production
31 Tax Credit Act, the Opportunity Scholarships Act, and section 77-27,238

1 and shall execute and forward to the fiduciary, on or before the original
2 due date of the Nebraska fiduciary return, an agreement which states that
3 he or she will file a Nebraska income tax return and pay income tax on
4 all income derived from or connected with sources in this state, and such
5 agreement shall be attached to the Nebraska fiduciary return for such
6 taxable year.

7 (5) In the absence of the nonresident beneficiary's executed
8 agreement being attached to the Nebraska fiduciary return, the estate or
9 trust shall remit a portion of such beneficiary's income which was
10 derived from or attributable to Nebraska sources with its Nebraska return
11 for the taxable year. For taxable years beginning or deemed to begin
12 before January 1, 2013, the amount of remittance, in such instance, shall
13 be the highest individual income tax rate determined under section
14 77-2715.02 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. For taxable years beginning or deemed to begin on or
17 after January 1, 2013, the amount of remittance, in such instance, shall
18 be the highest individual income tax rate determined under section
19 77-2715.03 multiplied by the nonresident beneficiary's share of the
20 estate or trust income which was derived from or attributable to sources
21 within this state. The amount remitted shall be allowed as a credit
22 against the Nebraska income tax liability of the beneficiary.

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

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

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

12 Sec. 16. Section 77-2734.03, Revised Statutes Cumulative Supplement,
13 2020, is amended to read:

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

21 (b) For taxable years commencing on or after January 1, 1997, any
22 insurer paying a tax on premiums and assessments pursuant to section
23 77-908 or 81-523, any electric cooperative organized under the Joint
24 Public Power Authority Act, or any credit union shall be credited, in the
25 computation of the tax due under the Nebraska Revenue Act of 1967, with
26 the amount paid during the taxable year as (i) taxes on such premiums and
27 assessments included as Nebraska premiums and assessments under section
28 77-2734.05 and (ii) taxes in lieu of intangible tax.

29 (c) For taxable years commencing or deemed to commence prior to, on,
30 or after January 1, 1998, any insurer paying a tax on premiums and
31 assessments pursuant to section 77-908 or 81-523 shall be credited, in

1 the computation of the tax due under the Nebraska Revenue Act of 1967,
2 with the amount paid during the taxable year as assessments allowed as an
3 offset against premium and related retaliatory tax liability pursuant to
4 section 44-4233.

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

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

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

16 (5) There shall be allowed to corporate taxpayers refundable income
17 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act,
18 the Nebraska Advantage Research and Development Act, the Nebraska
19 Property Tax Incentive Act, and the Renewable Chemical Production Tax
20 Credit Act.

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

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

29 Sec. 17. This act becomes operative for all taxable years beginning
30 or deemed to begin on or after January 1, 2022, under the Internal
31 Revenue Code of 1986, as amended.

1 Sec. 18. If any section in this act or any part of any section is
2 declared invalid or unconstitutional, the declaration shall not affect
3 the validity or constitutionality of the remaining portions.

4 Sec. 19. Original sections 77-2715.07, 77-2717, and 77-2734.03,
5 Revised Statutes Cumulative Supplement, 2020, are repealed.