

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 510

Introduced by Cook, 13.

Read first time January 21, 2015

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2701, 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes
- 3 Cumulative Supplement, 2014; to provide an income tax credit to
- 4 employers of recipients of certain public assistance as prescribed;
- 5 to harmonize provisions; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-2701, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 77-2701 Sections 77-2701 to 77-27,135.01 and 77-27,228 to 77-27,236
4 and section 2 of this act shall be known and may be cited as the Nebraska
5 Revenue Act of 1967.

6 Sec. 2. (1) For taxable years beginning or deemed to begin on or
7 after January 1, 2016, there shall be allowed to an employer of any
8 eligible employee a nonrefundable credit, for not more than two years,
9 against the income tax imposed by the Nebraska Revenue Act of 1967 in the
10 amount of twenty percent of the employer's annual expenditures for any
11 one or more of the following services that are provided to eligible
12 employees and that are incidental to the employer's business:

13 (a) The provision of tuition at a Nebraska public institution of
14 postsecondary education for eligible employees;

15 (b) The provision of child care services or the payment of the costs
16 associated with child care services for minor children of eligible
17 employees; and

18 (c) The provision of programs for the transportation of eligible
19 employees to and from work.

20 (2) The credit allowed under this section for any taxable year shall
21 not exceed the employer's actual tax liability for such taxable year.

22 (3) The Department of Revenue shall submit a report electronically
23 to the Clerk of the Legislature on or before July 1 each year on (a) the
24 number of employers claiming a credit under this section and (b) the
25 number of eligible employees receiving the services for which credits are
26 claimed.

27 (4) The Department of Revenue, in consultation with the Department
28 of Health and Human Services, shall develop a process to verify that any
29 employer claiming credits under this section qualifies for such credits.

30 (5) The Department of Revenue may adopt and promulgate rules and
31 regulations necessary to carry out this section.

1 (6) For purposes of this section, eligible employee means an
2 individual who is a member of a family that received benefits under the
3 federal Temporary Assistance to Needy Families program established in 42
4 U.S.C. 601 et seq., for any nine months of the eighteen-month period
5 immediately prior to the employee's hiring date.

6 Sec. 3. Section 77-2715.07, Revised Statutes Cumulative Supplement,
7 2014, is amended to read:

8 77-2715.07 (1) There shall be allowed to qualified resident
9 individuals as a nonrefundable credit against the income tax imposed by
10 the Nebraska Revenue Act of 1967:

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

13 (b) A credit for taxes paid to another state as provided in section
14 77-2730.

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

17 (a) For returns filed reporting federal adjusted gross incomes of
18 greater than twenty-nine thousand dollars, a nonrefundable credit equal
19 to twenty-five percent of the federal credit allowed under section 21 of
20 the Internal Revenue Code of 1986, as amended;

21 (b) For returns filed reporting federal adjusted gross income of
22 twenty-nine thousand dollars or less, a refundable credit equal to a
23 percentage of the federal credit allowable under section 21 of the
24 Internal Revenue Code of 1986, as amended, whether or not the federal
25 credit was limited by the federal tax liability. The percentage of the
26 federal credit shall be one hundred percent for incomes not greater than
27 twenty-two thousand dollars, and the percentage shall be reduced by ten
28 percent for each one thousand dollars, or fraction thereof, by which the
29 reported federal adjusted gross income exceeds twenty-two thousand
30 dollars;

31 (c) A refundable credit as provided in section 77-5209.01 for

1 individuals who qualify for an income tax credit as a qualified beginning
2 farmer or livestock producer under the Beginning Farmer Tax Credit Act
3 for all taxable years beginning or deemed to begin on or after January 1,
4 2006, under the Internal Revenue Code of 1986, as amended;

5 (d) A refundable credit for individuals who qualify for an income
6 tax credit under the Angel Investment Tax Credit Act, the Nebraska
7 Advantage Microenterprise Tax Credit Act, or the Nebraska Advantage
8 Research and Development Act; and

9 (e) A refundable credit equal to ten percent of the federal credit
10 allowed under section 32 of the Internal Revenue Code of 1986, as
11 amended.

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; ~~and~~

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

30 (f) A credit to employers as provided in section 2 of this act.

31 (4) There shall be allowed as a credit against the income tax

1 imposed by the Nebraska Revenue Act of 1967:

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

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

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

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

27 (b) For all taxable years beginning on or after January 1, 2009,
28 under the Internal Revenue Code of 1986, as amended, there shall be
29 allowed to each partner, shareholder, member, or beneficiary of a
30 partnership, subchapter S corporation, limited liability company, or
31 estate or trust a nonrefundable credit against the income tax imposed by

1 the Nebraska Revenue Act of 1967 equal to the partner's, shareholder's,
2 member's, or beneficiary's portion of the amount of franchise tax paid to
3 the state under sections 77-3801 to 77-3807 by a financial institution.

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

10 Sec. 4. Section 77-2717, Revised Statutes Cumulative Supplement,
11 2014, is amended to read:

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

1 and trusts as provided in the New Markets Job Growth Investment Act.

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

19 (b) The tax imposed on all nonresident estates and trusts shall be
20 the portion of the tax imposed on resident estates and trusts which is
21 attributable to the income derived from sources within this state. The
22 tax which is attributable to income derived from sources within this
23 state shall be determined by multiplying the liability to this state for
24 a resident estate or trust with the same total income by a fraction, the
25 numerator of which is the nonresident estate's or trust's Nebraska income
26 as determined by sections 77-2724 and 77-2725 and the denominator of
27 which is its total federal income after first adjusting each by the
28 amounts provided in section 77-2716. The federal credit for prior year
29 minimum tax, after the recomputations required by the Nebraska Revenue
30 Act of 1967, reduced by the percentage of the total income which is
31 attributable to income from sources outside this state, and the credits

1 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
2 Nebraska Advantage Research and Development Act shall be allowed as a
3 reduction in the income tax due. A refundable income tax credit shall be
4 allowed for all nonresident estates and trusts under the Angel Investment
5 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
6 and the Nebraska Advantage Research and Development Act. A nonrefundable
7 income tax credit shall be allowed for all nonresident estates and trusts
8 as provided in the Nebraska Job Creation and Mainstreet Revitalization
9 Act, ~~and~~ the New Markets Job Growth Investment Act, and section 2 of this
10 act.

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

23 (3) The beneficiaries of such estate or trust who are residents of
24 this state shall include in their income their proportionate share of
25 such estate's or trust's federal income and shall reduce their Nebraska
26 tax liability by their proportionate share of the credits as provided in
27 the Angel Investment Tax Credit Act, the Nebraska Advantage
28 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
29 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
30 Act, ~~and~~ the New Markets Job Growth Investment Act, and section 2 of this
31 act. There shall be allowed to a beneficiary a refundable income tax

1 credit under the Beginning Farmer Tax Credit Act for all taxable years
2 beginning or deemed to begin on or after January 1, 2001, under the
3 Internal Revenue Code of 1986, as amended.

4 (4) If any beneficiary of such estate or trust is a nonresident
5 during any part of the estate's or trust's taxable year, he or she shall
6 file a Nebraska income tax return which shall include (a) in Nebraska
7 adjusted gross income that portion of the estate's or trust's Nebraska
8 income, as determined under sections 77-2724 and 77-2725, allocable to
9 his or her interest in the estate or trust and (b) a reduction of the
10 Nebraska tax liability by his or her proportionate share of the credits
11 as provided in the Angel Investment Tax Credit Act, the Nebraska
12 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
13 and Development Act, the Nebraska Job Creation and Mainstreet
14 Revitalization Act, ~~and~~ the New Markets Job Growth Investment Act, and
15 section 2 of this act and shall execute and forward to the fiduciary, on
16 or before the original due date of the Nebraska fiduciary return, an
17 agreement which states that he or she will file a Nebraska income tax
18 return and pay income tax on all income derived from or connected with
19 sources in this state, and such agreement shall be attached to the
20 Nebraska fiduciary return for such taxable year.

21 (5) In the absence of the nonresident beneficiary's executed
22 agreement being attached to the Nebraska fiduciary return, the estate or
23 trust shall remit a portion of such beneficiary's income which was
24 derived from or attributable to Nebraska sources with its Nebraska return
25 for the taxable year. For taxable years beginning or deemed to begin
26 before January 1, 2013, the amount of remittance, in such instance, shall
27 be the highest individual income tax rate determined under section
28 77-2715.02 multiplied by the nonresident beneficiary's share of the
29 estate or trust income which was derived from or attributable to sources
30 within this state. For taxable years beginning or deemed to begin on or
31 after January 1, 2013, the amount of remittance, in such instance, shall

1 be the highest individual income tax rate determined under section
2 77-2715.03 multiplied by the nonresident beneficiary's share of the
3 estate or trust income which was derived from or attributable to sources
4 within this state. The amount remitted shall be allowed as a credit
5 against the Nebraska income tax liability of the beneficiary.

6 (6) The Tax Commissioner may allow a nonresident beneficiary to not
7 file a Nebraska income tax return if the nonresident beneficiary's only
8 source of Nebraska income was his or her share of the estate's or trust's
9 income which was derived from or attributable to sources within this
10 state, the nonresident did not file an agreement to file a Nebraska
11 income tax return, and the estate or trust has remitted the amount
12 required by subsection (5) of this section on behalf of such nonresident
13 beneficiary. The amount remitted shall be retained in satisfaction of the
14 Nebraska income tax liability of the nonresident beneficiary.

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

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

26 Sec. 5. Section 77-2734.03, Revised Statutes Cumulative Supplement,
27 2014, is amended to read:

28 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
29 1997, any (i) insurer paying a tax on premiums and assessments pursuant
30 to section 77-908 or 81-523, (ii) electric cooperative organized under
31 the Joint Public Power Authority Act, or (iii) credit union shall be

1 credited, in the computation of the tax due under the Nebraska Revenue
2 Act of 1967, with the amount paid during the taxable year as taxes on
3 such premiums and assessments and taxes in lieu of intangible tax.

4 (b) For taxable years commencing on or after January 1, 1997, any
5 insurer paying a tax on premiums and assessments pursuant to section
6 77-908 or 81-523, any electric cooperative organized under the Joint
7 Public Power Authority Act, or any credit union shall be credited, in the
8 computation of the tax due under the Nebraska Revenue Act of 1967, with
9 the amount paid during the taxable year as (i) taxes on such premiums and
10 assessments included as Nebraska premiums and assessments under section
11 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

30 (5) There shall be allowed to corporate taxpayers refundable income
31 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act

1 and the Nebraska Advantage Research and Development Act.

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

5 (7) There shall be allowed to corporate taxpayers a nonrefundable
6 income tax credit as provided in the Nebraska Job Creation and Mainstreet
7 Revitalization Act, ~~and~~ the New Markets Job Growth Investment Act, and
8 section 2 of this act.

9 Sec. 6. Original sections 77-2701, 77-2715.07, 77-2717, and
10 77-2734.03, Revised Statutes Cumulative Supplement, 2014, are repealed.