

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 825

Introduced by Blood, 3.

Read first time January 03, 2024

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 Supplement,
- 3 2023; to adopt the Nebraska Farmers of Color Opportunity Act; to
- 4 provide tax credits; to harmonize provisions; to provide an
- 5 operative date; and to repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 12 of this act shall be known and may be
2 cited as the Nebraska Farmers of Color Opportunity Act.

3 Sec. 2. The Legislature finds that:

4 (1) It is in the best interests of the State of Nebraska and its
5 citizens to encourage individuals and businesses to support organizations
6 that financially assist black agricultural producers in this state; and

7 (2) Such encouragement can be accomplished through the use of tax
8 credits as provided in the Nebraska Farmers of Color Opportunity Act.

9 Sec. 3. For purposes of the Nebraska Farmers of Color Opportunity
10 Act:

11 (1) Department means the Department of Revenue;

12 (2) Eligible farmer means an individual who meets the following
13 requirements:

14 (a) The individual is a black resident of this state; and

15 (b) The individual's primary source of income is crop or livestock
16 production in this state; and

17 (3) Qualified granting organization means an organization that is
18 certified pursuant to section 4 of this act to provide tax-credit-
19 supported grants to eligible farmers.

20 Sec. 4. (1) An organization may apply to the department to become
21 certified as a qualified granting organization under the Nebraska Farmers
22 of Color Opportunity Act. An organization shall obtain such certification
23 prior to providing any grants to eligible farmers under the act.

24 (2) In order to become certified, the applicant shall provide the
25 department with sufficient information to show:

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

28 (b) That the applicant will offer one or more grant programs for
29 eligible farmers;

30 (c) That the applicant will limit the maximum grant amount awarded
31 to any eligible farmer to XX dollars; and

1 (d) That the applicant will be able to comply with the requirements
2 of section 10 of this act.

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

9 Sec. 5. (1) An individual taxpayer who makes one or more cash
10 contributions to one or more qualified granting organizations during a
11 tax year shall be eligible for a credit against the income tax due under
12 the Nebraska Revenue Act of 1967. Except as otherwise provided in the
13 Nebraska Farmers of Color Opportunity Act, the amount of the credit shall
14 be equal to the lesser of (a) the total amount of such contributions made
15 during the tax year or (b) fifty percent of the income tax liability of
16 such taxpayer for the tax year. A taxpayer may only claim a credit
17 pursuant to this section for the portion of the contribution that was not
18 claimed as a charitable contribution under the Internal Revenue Code.

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

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

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

31 (5) The tax credit allowed under this section is subject to section

1 9 of this act.

2 Sec. 6. (1) Any partnership, limited liability company, or
3 corporation having an election in effect under subchapter S of the
4 Internal Revenue Code of 1986, as amended, that makes one or more cash
5 contributions to one or more qualified granting organizations during a
6 tax year shall be eligible for a credit against the income tax due under
7 the Nebraska Revenue Act of 1967. Except as otherwise provided in the
8 Nebraska Farmers of Color Opportunity Act, the amount of the credit shall
9 be equal to the lesser of (a) the total amount of such contributions made
10 during the tax year or (b) fifty percent of the income tax liability of
11 such taxpayer for the tax year. A taxpayer may only claim a credit
12 pursuant to this section for the portion of the contribution that was not
13 claimed as a charitable contribution under the Internal Revenue Code. The
14 credit shall be attributed to each partner, member, or shareholder in the
15 same proportion used to report the partnership's, limited liability
16 company's, or subchapter S corporation's income or loss for income tax
17 purposes.

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

23 (3) The taxpayer may not designate all or any part of the
24 contribution to a qualified granting organization for the benefit of any
25 eligible farmer specifically identified by the taxpayer.

26 (4) The tax credit allowed under this section is subject to section
27 9 of this act.

28 Sec. 7. (1) An estate or trust which makes one or more cash
29 contributions to one or more qualified granting organizations during a
30 tax year shall be eligible for a credit against the income tax due under
31 the Nebraska Revenue Act of 1967. Except as otherwise provided in the

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

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

16 (3) The taxpayer may not designate all or any part of the
17 contribution to a qualified granting organization for the benefit of any
18 eligible farmer specifically identified by the taxpayer.

19 (4) The tax credit allowed under this section is subject to section
20 9 of this act.

21 Sec. 8. (1) A corporate taxpayer as defined in section 77-2734.04
22 which makes one or more cash contributions to one or more qualified
23 granting organizations during a tax year shall be eligible for a credit
24 against the income tax due under the Nebraska Revenue Act of 1967. Except
25 as otherwise provided in the Nebraska Farmers of Color Opportunity Act,
26 the amount of the credit shall be equal to the lesser of (a) the total
27 amount of such contributions made during the tax year or (b) fifty
28 percent of the income tax liability of such taxpayer for the tax year. A
29 taxpayer may only claim a credit pursuant to this section for the portion
30 of the contribution that was not claimed as a charitable contribution
31 under the Internal Revenue Code.

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

6 (3) The taxpayer may not designate all or any part of the
7 contribution to a qualified granting organization for the benefit of any
8 eligible farmer specifically identified by the taxpayer.

9 (4) The tax credit allowed under this section is subject to section
10 9 of this act.

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

29 (2) In order to be allowed a tax credit as provided by the act, the
30 taxpayer shall make its contribution between thirty-one and sixty days
31 after notifying the qualified granting organization of the taxpayer's

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

14 (3) The department shall consider notifications regarding intended
15 tax credit amounts in the order in which they are received to ascertain
16 whether the intended tax credit amounts are within the annual limit
17 provided in this subsection. The annual limit on the total amount of tax
18 credits for calendar year 2025 shall be twenty-five million dollars. The
19 annual limit on the total amount of tax credits for calendar year 2026
20 and each calendar year thereafter shall be calculated by taking the
21 annual limit from the prior calendar year and then multiplying such
22 amount by (a) one hundred twenty-five percent if the intended tax credit
23 amounts in the prior calendar year exceeded ninety percent of the annual
24 limit applicable to that calendar year or (b) one hundred percent if the
25 intended tax credit amounts in the prior calendar year did not exceed
26 ninety percent of the annual limit applicable to that calendar year.

27 (4) The Department of Agriculture and the Department of Revenue
28 shall publish on their respective websites information identifying the
29 annual limit when it is increased pursuant to subsection (3) of this
30 section.

31 (5) Once credits have reached the designated annual limit for any

1 calendar year, no additional credits shall be allowed for such calendar
2 year. Credits shall be prorated among the notifications received on the
3 day the annual limit is exceeded.

4 Sec. 10. (1) In order for a qualified granting organization to
5 remain certified under the Nebraska Farmers of Color Opportunity Act, the
6 qualified granting organization shall allocate its revenue as follows:

7 (a) If the annual limit on tax credits under section 9 of this act
8 is less than thirty-five million dollars, the qualified granting
9 organization shall allocate at least ninety percent of its revenue for
10 grants to eligible farmers and no more than ten percent of its revenue
11 shall be used or reserved for administrative costs; or

12 (b) If the annual limit on tax credits under section 9 of this act
13 is thirty-five million dollars or more, the qualified granting
14 organization shall allocate at least ninety-five percent of its revenue
15 for grants to eligible farmers, and no more than five percent of its
16 revenue shall be used or reserved for administrative costs.

17 (2) For purposes of subsection (1) of this section, revenue is
18 allocated when it is expended or otherwise irrevocably encumbered for
19 expenditure. The percentage of revenue allocated for grants to eligible
20 farmers shall be measured as a monthly average over the most recent
21 twenty-four-month period or, for a qualified granting organization that
22 has been certified for less than twenty-four months, over the period of
23 time that the qualified granting organization has been certified.

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

28 (2) Each qualified granting organization shall include with the
29 report submitted under subsection (1) of this section a summary
30 description of (a) its policies and procedures for awarding grants to
31 eligible farmers, (b) the number of eligible farmers receiving grants in

1 the most recent fiscal year, (c) the total amount of contributions
2 received for grants to eligible farmers in the most recent fiscal year,
3 and (d) the total amount of grants awarded to eligible farmers in the
4 most recent fiscal year.

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

8 Sec. 12. The department may adopt and promulgate rules and
9 regulations to carry out the Nebraska Farmers of Color Opportunity Act.

10 Sec. 13. Section 77-2715.07, Revised Statutes Supplement, 2023, is
11 amended to read:

12 77-2715.07 (1) There shall be allowed to qualified resident
13 individuals as a nonrefundable credit against the income tax imposed by
14 the Nebraska Revenue Act of 1967:

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

17 (b) A credit for taxes paid to another state as provided in section
18 77-2730.

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

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

31 (b) For returns filed reporting federal adjusted gross income of

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

15 (c) A refundable credit as provided in section 77-5209.01 for
16 individuals who qualify for an income tax credit as a qualified beginning
17 farmer or livestock producer under the Beginning Farmer Tax Credit Act
18 for all taxable years beginning or deemed to begin on or after January 1,
19 2006, under the Internal Revenue Code of 1986, as amended;

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

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

1 eligibility for the federal credit.

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

5 (a) A credit for personal exemptions allowed under section
6 77-2716.01;

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

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

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

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

20 (f) A credit to employers as provided in sections 77-27,238 and
21 77-27,240;

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

23 (h) A credit to grocery store retailers, restaurants, and
24 agricultural producers as provided in section 77-27,241;~~and~~

25 (i) A credit as provided in the Opportunity Scholarships Act; ~~and~~ -

26 (j) A credit as provided in the Nebraska Farmers of Color
27 Opportunity Act.

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

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

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

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

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

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

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

7 (6) There shall be allowed to all individuals nonrefundable credits
8 against the income tax imposed by the Nebraska Revenue Act of 1967 as
9 provided in section 77-3604 and refundable credits against the income tax
10 imposed by the Nebraska Revenue Act of 1967 as provided in section
11 77-3605.

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

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

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

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

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

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

29 (d) The credit provided in this subsection shall be subject to
30 recapture by the Department of Revenue if the individual claiming the
31 credit sells or otherwise transfers the residence or quits using the

1 residence as his or her primary residence within five years after the end
2 of the taxable year in which the credit was claimed.

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

6 (8) There shall be allowed to all individuals refundable credits
7 against the income tax imposed by the Nebraska Revenue Act of 1967 as
8 provided in the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher
9 Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the
10 Renewable Chemical Production Tax Credit Act.

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

15 (i) A fetal death certificate is filed pursuant to subsection (1) of
16 section 71-606 for such child;

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

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

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

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

24 (10) There shall be allowed to all individuals refundable credits
25 against the income tax imposed by the Nebraska Revenue Act of 1967 as
26 provided in section 77-7203 and nonrefundable credits against the income
27 tax imposed by the Nebraska Revenue Act of 1967 as provided in section
28 77-7204.

29 Sec. 14. Section 77-2717, Revised Statutes Supplement, 2023, is
30 amended to read:

31 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin

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

21 (ii) For taxable years beginning or deemed to begin on or after
22 January 1, 2014, the tax imposed on all resident estates and trusts shall
23 be a percentage of the federal taxable income of such estates and trusts
24 as modified in section 77-2716, plus a percentage of the federal tax on
25 premature or lump-sum distributions from qualified retirement plans. The
26 additional taxes shall be recomputed by substituting Nebraska taxable
27 income for federal taxable income and applying Nebraska rates to the
28 result. The credits provided in the Nebraska Advantage Microenterprise
29 Tax Credit Act and the Nebraska Advantage Research and Development Act
30 shall be allowed as a reduction in the income tax due. A refundable
31 income tax credit shall be allowed for all resident estates and trusts

1 under the Angel Investment Tax Credit Act, the Nebraska Advantage
2 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
3 Development Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska
4 Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and
5 the Renewable Chemical Production Tax Credit Act. A nonrefundable income
6 tax credit shall be allowed for all resident estates and trusts as
7 provided in the Nebraska Job Creation and Mainstreet Revitalization Act,
8 the New Markets Job Growth Investment Act, the School Readiness Tax
9 Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax
10 Credit Act, the Opportunity Scholarships Act, the Nebraska Farmers of
11 Color Opportunity Act, and sections 77-27,238, 77-27,240, and 77-27,241.

12 (b) The tax imposed on all nonresident estates and trusts shall be
13 the portion of the tax imposed on resident estates and trusts which is
14 attributable to the income derived from sources within this state. The
15 tax which is attributable to income derived from sources within this
16 state shall be determined by multiplying the liability to this state for
17 a resident estate or trust with the same total income by a fraction, the
18 numerator of which is the nonresident estate's or trust's Nebraska income
19 as determined by sections 77-2724 and 77-2725 and the denominator of
20 which is its total federal income after first adjusting each by the
21 amounts provided in section 77-2716. The federal credit for prior year
22 minimum tax, after the recomputations required by the Nebraska Revenue
23 Act of 1967, reduced by the percentage of the total income which is
24 attributable to income from sources outside this state, and the credits
25 provided in the Nebraska Advantage Microenterprise Tax Credit Act and the
26 Nebraska Advantage Research and Development Act shall be allowed as a
27 reduction in the income tax due. A refundable income tax credit shall be
28 allowed for all nonresident estates and trusts under the Angel Investment
29 Tax Credit Act, the Nebraska Advantage Microenterprise Tax Credit Act,
30 the Nebraska Advantage Research and Development Act, the Nebraska
31 Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the

1 Nebraska Property Tax Incentive Act, and the Renewable Chemical
2 Production Tax Credit Act. A nonrefundable income tax credit shall be
3 allowed for all nonresident estates and trusts as provided in the
4 Nebraska Job Creation and Mainstreet Revitalization Act, the New Markets
5 Job Growth Investment Act, the School Readiness Tax Credit Act, the Child
6 Care Tax Credit Act, the Affordable Housing Tax Credit Act, the
7 Opportunity Scholarships Act, the Nebraska Farmers of Color Opportunity
8 Act, and sections 77-27,238, 77-27,240, and 77-27,241.

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

21 (3) The beneficiaries of such estate or trust who are residents of
22 this state shall include in their income their proportionate share of
23 such estate's or trust's federal income and shall reduce their Nebraska
24 tax liability by their proportionate share of the credits as provided in
25 the Angel Investment Tax Credit Act, the Nebraska Advantage
26 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
27 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
28 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
29 Credit Act, the Child Care Tax Credit Act, the Affordable Housing Tax
30 Credit Act, the Nebraska Biodiesel Tax Credit Act, the Nebraska Higher
31 Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the

1 Renewable Chemical Production Tax Credit Act, the Opportunity
2 Scholarships Act, the Nebraska Farmers of Color Opportunity Act, and
3 sections 77-27,238, 77-27,240, and 77-27,241. There shall be allowed to a
4 beneficiary a refundable income tax credit under the Beginning Farmer Tax
5 Credit Act for all taxable years beginning or deemed to begin on or after
6 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

7 (4) If any beneficiary of such estate or trust is a nonresident
8 during any part of the estate's or trust's taxable year, he or she shall
9 file a Nebraska income tax return which shall include (a) in Nebraska
10 adjusted gross income that portion of the estate's or trust's Nebraska
11 income, as determined under sections 77-2724 and 77-2725, allocable to
12 his or her interest in the estate or trust and (b) a reduction of the
13 Nebraska tax liability by his or her proportionate share of the credits
14 as provided in the Angel Investment Tax Credit Act, the Nebraska
15 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
16 and Development Act, the Nebraska Job Creation and Mainstreet
17 Revitalization Act, the New Markets Job Growth Investment Act, the School
18 Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable
19 Housing Tax Credit Act, the Nebraska Biodiesel Tax Credit Act, the
20 Nebraska Higher Blend Tax Credit Act, the Nebraska Property Tax Incentive
21 Act, the Renewable Chemical Production Tax Credit Act, the Opportunity
22 Scholarships Act, the Nebraska Farmers of Color Opportunity Act, and
23 sections 77-27,238, 77-27,240, and 77-27,241 and shall execute and
24 forward to the fiduciary, on or before the original due date of the
25 Nebraska fiduciary return, an agreement which states that he or she will
26 file a Nebraska income tax return and pay income tax on all income
27 derived from or connected with sources in this state, and such agreement
28 shall be attached to the Nebraska fiduciary return for such taxable year.

29 (5) In the absence of the nonresident beneficiary's executed
30 agreement being attached to the Nebraska fiduciary return, the estate or
31 trust shall remit a portion of such beneficiary's income which was

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

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

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

30 (8) For purposes of this section, any beneficiary of an estate or
31 trust that is a grantor trust of a nonresident shall be disregarded and

1 this section shall apply as though the nonresident grantor was the
2 beneficiary.

3 Sec. 15. Section 77-2734.03, Revised Statutes Supplement, 2023, is
4 amended to read:

5 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
6 1997, any (i) insurer paying a tax on premiums and assessments pursuant
7 to section 77-908 or 81-523, (ii) electric cooperative organized under
8 the Joint Public Power Authority Act, or (iii) credit union shall be
9 credited, in the computation of the tax due under the Nebraska Revenue
10 Act of 1967, with the amount paid during the taxable year as taxes on
11 such premiums and assessments and taxes in lieu of intangible tax.

12 (b) For taxable years commencing on or after January 1, 1997, any
13 insurer paying a tax on premiums and assessments pursuant to section
14 77-908 or 81-523, any electric cooperative organized under the Joint
15 Public Power Authority Act, or any credit union shall be credited, in the
16 computation of the tax due under the Nebraska Revenue Act of 1967, with
17 the amount paid during the taxable year as (i) taxes on such premiums and
18 assessments included as Nebraska premiums and assessments under section
19 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

30 (3) There shall be allowed to corporate taxpayers a refundable
31 income tax credit under the Beginning Farmer Tax Credit Act for all

1 taxable years beginning or deemed to begin on or after January 1, 2001,
2 under the Internal Revenue Code of 1986, as amended.

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

7 (5) There shall be allowed to corporate taxpayers refundable income
8 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act,
9 the Nebraska Advantage Research and Development Act, the Nebraska
10 Biodiesel Tax Credit Act, the Nebraska Higher Blend Tax Credit Act, the
11 Nebraska Property Tax Incentive Act, and the Renewable Chemical
12 Production Tax Credit Act.

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

16 (7) There shall be allowed to corporate taxpayers a nonrefundable
17 income tax credit as provided in the Nebraska Job Creation and Mainstreet
18 Revitalization Act, the New Markets Job Growth Investment Act, the School
19 Readiness Tax Credit Act, the Child Care Tax Credit Act, the Affordable
20 Housing Tax Credit Act, the Opportunity Scholarships Act, the Nebraska
21 Farmers of Color Opportunity Act, and sections 77-27,238, 77-27,240, and
22 77-27,241.

23 Sec. 16. This act becomes operative for all taxable years beginning
24 or deemed to begin on or after January 1, 2025, under the Internal
25 Revenue Code of 1986, as amended.

26 Sec. 17. Original sections 77-2715.07, 77-2717, and 77-2734.03,
27 Revised Statutes Supplement, 2023, are repealed.