

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1202

Introduced by Linehan, 39; Albrecht, 17; Clements, 2; Kolterman, 24;
Lindstrom, 18.

Read first time January 23, 2020

Committee:

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2717 and 77-2734.03, Reissue Revised Statutes of Nebraska, and
- 3 section 77-2715.07, Revised Statutes Supplement, 2019; to adopt the
- 4 Opportunity Scholarships Act; to provide for tax credits; to
- 5 harmonize provisions; to provide an operative date; to provide
- 6 severability; and to repeal the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

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

3 Sec. 2. For purposes of the Opportunity Scholarships Act:

4 (1) Department means the Department of Revenue;

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

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

9 (a)(i) Is a dependent member of a household that qualified, during
10 the most recently concluded calendar year before the student receives an
11 education scholarship pursuant to the act, for benefits under the
12 Supplemental Nutrition Assistance Program administered by the State of
13 Nebraska pursuant to the federal Food and Nutrition Act of 2008, 7 U.S.C.
14 2011 et seq., as such act existed on January 1, 2020; or

15 (ii) Is in foster care or out-of-home care; and

16 (b)(i) Is receiving an education scholarship for the first time and
17 is (A) entering kindergarten or ninth grade in a qualified school or (B)
18 transferring from a public school at which the student was enrolled for
19 at least one semester immediately preceding the first semester for which
20 the student receives an education scholarship to a qualified school and
21 is entering any of grades kindergarten through grade twelve;

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

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

28 (4) Qualified school means any nongovernmental, privately operated
29 elementary or secondary school located in this state that (a) is operated
30 not for profit, (b) complies with the antidiscrimination provisions of 42
31 U.S.C. 1981 as such section existed on January 1, 2020, (c) complies with

1 all health and life safety laws or codes that apply to privately operated
2 schools, and (d) fulfills the applicable accreditation or approval
3 requirements established by the State Board of Education pursuant to
4 section 79-318;

5 (5) Scholarship-granting organization means a charitable
6 organization in this state that is (a) exempt from federal income
7 taxation pursuant to section 501(c)(3) of the Internal Revenue Code of
8 1986, as amended, and (b) certified pursuant to section 3 of this act to
9 provide tax-credit-supported education scholarships to eligible students
10 to assist them in attending qualified schools; and

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

14 Sec. 3. (1) An organization may apply to the department to become
15 certified as a scholarship-granting organization under the Opportunity
16 Scholarships Act. An organization shall obtain such certification prior
17 to providing any education scholarships to eligible students under the
18 act. The applicant shall provide the department with sufficient
19 information to show:

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

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

24 (c) That the applicant will be able to comply with the requirements
25 of section 9 of this act;

26 (d) That the applicant will provide education scholarships for
27 eligible students and without limiting education scholarship availability
28 to only one qualified school;

29 (e) That the applicant will give first priority to eligible students
30 who received an education scholarship from an eligible scholarship-
31 granting organization during the previous school year;

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

4 (g) That the applicant will limit scholarship amounts awarded to
5 students in a manner that assures that the average of the scholarship
6 amounts awarded per student does not exceed seventy-five percent of the
7 statewide average general fund operating expenditures per formula student
8 for the most recently available complete data year as such terms are
9 defined in section 79-1003.

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

16 Sec. 4. (1) An individual taxpayer who makes one or more cash
17 contributions to one or more scholarship-granting organizations during a
18 tax year shall be eligible for a credit against the income tax due under
19 the Nebraska Revenue Act of 1967. Except as otherwise provided in the
20 Opportunity Scholarships Act, the amount of the credit shall be equal to
21 the lesser of (a) the total amount of such contributions made during the
22 tax year or (b) fifty percent of the income tax liability of such
23 taxpayer for the tax year. A taxpayer may only claim a credit pursuant to
24 this section against the income tax due for the portion of the
25 contribution that was not claimed as a charitable contribution under the
26 Internal Revenue Code.

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

31 (3) The tax credit allowed under this section shall be a

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

5 (4) The taxpayer shall not designate all or any part of the
6 contribution to a scholarship-granting organization for the benefit of
7 any eligible student specifically identified by the taxpayer.

8 (5) The tax credit allowed under this section is subject to section
9 8 of this act.

10 Sec. 5. (1) Any partnership, limited liability company, or
11 corporation having an election in effect under subchapter S of the
12 Internal Revenue Code of 1986, as amended, that (a) is carrying on any
13 trade or business for which deductions would be allowed under section 162
14 of the Internal Revenue Code of 1986, as amended, or is carrying on any
15 rental activity and (b) makes one or more cash contributions to one or
16 more scholarship-granting organizations during a tax year shall be
17 eligible for a credit against the income tax due under the Nebraska
18 Revenue Act of 1967. Except as otherwise provided in the Opportunity
19 Scholarships Act, the amount of the credit shall be equal to the lesser
20 of (a) the total amount of such contributions made during the tax year or
21 (b) fifty percent of the income tax liability of such taxpayer for the
22 tax year. A taxpayer may only claim a credit pursuant to this section
23 against the income tax due for the portion of the contribution that was
24 not claimed as a charitable contribution under the Internal Revenue Code.
25 The credit shall be attributed to each partner, member, or shareholder in
26 the same proportion used to report the partnership's, limited liability
27 company's, or subchapter S corporation's income or loss for income tax
28 purposes.

29 (2) The tax credit allowed under this section shall be a
30 nonrefundable credit. Any amount of the tax credit that is unused may be
31 carried forward and applied against the taxpayer's income tax liability

1 for the next five years immediately following the tax year in which the
2 credit is first allowed. The tax credit cannot be carried back.

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

6 (4) The tax credit allowed under this section is subject to section
7 8 of this act.

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

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

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

30 (4) The tax credit allowed under this section is subject to section
31 8 of this act.

1 Sec. 7. (1) A corporate taxpayer as defined in section 77-2734.04
2 which makes one or more cash contributions to one or more scholarship-
3 granting organizations during a tax year shall be eligible for a credit
4 against the income tax due under the Nebraska Revenue Act of 1967. Except
5 as otherwise provided in the Opportunity Scholarships Act, the amount of
6 the credit shall be equal to the lesser of (a) the total amount of such
7 contributions made during the tax year or (b) fifty percent of the income
8 tax liability of such taxpayer for the tax year. A taxpayer may only
9 claim a credit pursuant to this section against the income tax due for
10 the portion of the contribution that was not claimed as a charitable
11 contribution under the Internal Revenue Code.

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

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

20 (4) The tax credit allowed under this section is subject to section
21 8 of this act.

22 Sec. 8. (1) Prior to making a contribution to a scholarship-
23 granting organization, any taxpayer desiring to claim a tax credit under
24 the Opportunity Scholarships Act shall notify the scholarship-granting
25 organization of the taxpayer's intent to make a contribution and the
26 amount to be claimed as a tax credit. Upon receiving each such
27 notification, the scholarship-granting organization shall notify the
28 department of the intended tax credit amount. If the department
29 determines that the intended tax credit amount in the notification would
30 exceed the limit specified in subsection (3) of this section, the
31 department shall notify the scholarship-granting organization of its

1 determination within thirty days after receipt of the notification. The
2 scholarship-granting organization shall then promptly notify the taxpayer
3 of the department's determination that the intended tax credit amount in
4 the notification is not available. If an amount less than the amount
5 indicated in the notification is available for a tax credit, the
6 department shall notify the scholarship-granting organization of the
7 available amount and the scholarship-granting organization shall notify
8 the taxpayer of the available amount within three business days.

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

25 (3) The department shall consider notifications regarding intended
26 tax credit amounts in the order in which they are received to ascertain
27 whether the intended tax credit amounts are within the annual limit
28 provided in this subsection. The annual limit on the total amount of tax
29 credits for each calendar year shall be ten million dollars.

30 (4) Once credits have reached the designated annual limit for any
31 calendar year, no additional credits shall be allowed for such calendar

1 year. Credits shall be prorated among the notifications received on the
2 day the annual limit is exceeded.

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

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

15 Sec. 10. (1) Each scholarship-granting organization shall annually
16 submit to the department no later than December 1 of each year an audited
17 financial information report for its most recent fiscal year certified by
18 an independent public accountant.

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

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

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

8 Sec. 12. The department may adopt and promulgate rules and
9 regulations to carry out the Opportunity Scholarships Act.

10 Sec. 13. Section 77-2715.07, Revised Statutes Supplement, 2019, 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 section 77-27,238;~~and~~

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

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

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

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

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

31 (c) A refundable credit for individuals who qualify for an income

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

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

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

28 (c) Each partner, shareholder, member, or beneficiary shall report
29 his or her share of the credit in the same manner and proportion as he or
30 she reports the partnership, subchapter S corporation, limited liability
31 company, or estate or trust income. If any partner, shareholder, member,

1 or beneficiary cannot fully utilize the credit for that year, the credit
2 may not be carried forward or back.

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

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

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

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

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

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

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

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

30 (e) For purposes of this subsection, family member means an
31 individual's spouse, child, parent, brother, sister, grandchild, or

1 grandparent, whether by blood, marriage, or adoption.

2 Sec. 14. Section 77-2717, Reissue Revised Statutes of Nebraska, is
3 amended to read:

4 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
5 before January 1, 2014, the tax imposed on all resident estates and
6 trusts shall be a percentage of the federal taxable income of such
7 estates and trusts as modified in section 77-2716, plus a percentage of
8 the federal alternative minimum tax and the federal tax on premature or
9 lump-sum distributions from qualified retirement plans. The additional
10 taxes shall be recomputed by (A) substituting Nebraska taxable income for
11 federal taxable income, (B) calculating what the federal alternative
12 minimum tax would be on Nebraska taxable income and adjusting such
13 calculations for any items which are reflected differently in the
14 determination of federal taxable income, and (C) applying Nebraska rates
15 to the result. The federal credit for prior year minimum tax, after the
16 recomputations required by the Nebraska Revenue Act of 1967, and the
17 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
18 and the Nebraska Advantage Research and Development Act shall be allowed
19 as a reduction in the income tax due. A refundable income tax credit
20 shall be allowed for all resident estates and trusts under the Angel
21 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
22 Credit Act, and the Nebraska Advantage Research and Development Act. A
23 nonrefundable income tax credit shall be allowed for all resident estates
24 and trusts as provided in the New Markets Job Growth Investment Act.

25 (ii) For taxable years beginning or deemed to begin on or after
26 January 1, 2014, the tax imposed on all resident estates and trusts shall
27 be a percentage of the federal taxable income of such estates and trusts
28 as modified in section 77-2716, plus a percentage of the federal tax on
29 premature or lump-sum distributions from qualified retirement plans. The
30 additional taxes shall be recomputed by substituting Nebraska taxable
31 income for federal taxable income and applying Nebraska rates to the

1 result. The credits provided in the Nebraska Advantage Microenterprise
2 Tax Credit Act and the Nebraska Advantage Research and Development Act
3 shall be allowed as a reduction in the income tax due. A refundable
4 income tax credit shall be allowed for all resident estates and trusts
5 under the Angel Investment Tax Credit Act, the Nebraska Advantage
6 Microenterprise Tax Credit Act, and the Nebraska Advantage Research and
7 Development Act. A nonrefundable income tax credit shall be allowed for
8 all resident estates and trusts as provided in the Nebraska Job Creation
9 and Mainstreet Revitalization Act, the New Markets Job Growth Investment
10 Act, the School Readiness Tax Credit Act, the Affordable Housing Tax
11 Credit Act, the Opportunity Scholarships Act, and section 77-27,238.

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 and the Nebraska Advantage Research and Development Act. A nonrefundable
31 income tax credit shall be allowed for all nonresident estates and trusts

1 as provided in the Nebraska Job Creation and Mainstreet Revitalization
2 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
3 Credit Act, the Affordable Housing Tax Credit Act, the Opportunity
4 Scholarships Act, and section 77-27,238.

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

17 (3) The beneficiaries of such estate or trust who are residents of
18 this state shall include in their income their proportionate share of
19 such estate's or trust's federal income and shall reduce their Nebraska
20 tax liability by their proportionate share of the credits as provided in
21 the Angel Investment Tax Credit Act, the Nebraska Advantage
22 Microenterprise Tax Credit Act, the Nebraska Advantage Research and
23 Development Act, the Nebraska Job Creation and Mainstreet Revitalization
24 Act, the New Markets Job Growth Investment Act, the School Readiness Tax
25 Credit Act, the Affordable Housing Tax Credit Act, the Opportunity
26 Scholarships Act, and section 77-27,238. There shall be allowed to a
27 beneficiary a refundable income tax credit under the Beginning Farmer Tax
28 Credit Act for all taxable years beginning or deemed to begin on or after
29 January 1, 2001, under the Internal Revenue Code of 1986, as amended.

30 (4) If any beneficiary of such estate or trust is a nonresident
31 during any part of the estate's or trust's taxable year, he or she shall

1 file a Nebraska income tax return which shall include (a) in Nebraska
2 adjusted gross income that portion of the estate's or trust's Nebraska
3 income, as determined under sections 77-2724 and 77-2725, allocable to
4 his or her interest in the estate or trust and (b) a reduction of the
5 Nebraska tax liability by his or her proportionate share of the credits
6 as provided in the Angel Investment Tax Credit Act, the Nebraska
7 Advantage Microenterprise Tax Credit Act, the Nebraska Advantage Research
8 and Development Act, the Nebraska Job Creation and Mainstreet
9 Revitalization Act, the New Markets Job Growth Investment Act, the School
10 Readiness Tax Credit Act, the Affordable Housing Tax Credit Act, the
11 Opportunity Scholarships Act, and section 77-27,238 and shall execute and
12 forward to the fiduciary, on or before the original due date of the
13 Nebraska fiduciary return, an agreement which states that he or she will
14 file a Nebraska income tax return and pay income tax on all income
15 derived from or connected with sources in this state, and such agreement
16 shall be attached to the Nebraska fiduciary return for such taxable year.

17 (5) In the absence of the nonresident beneficiary's executed
18 agreement being attached to the Nebraska fiduciary return, the estate or
19 trust shall remit a portion of such beneficiary's income which was
20 derived from or attributable to Nebraska sources with its Nebraska return
21 for the taxable year. For taxable years beginning or deemed to begin
22 before January 1, 2013, the amount of remittance, in such instance, shall
23 be the highest individual income tax rate determined under section
24 77-2715.02 multiplied by the nonresident beneficiary's share of the
25 estate or trust income which was derived from or attributable to sources
26 within this state. For taxable years beginning or deemed to begin on or
27 after January 1, 2013, the amount of remittance, in such instance, shall
28 be the highest individual income tax rate determined under section
29 77-2715.03 multiplied by the nonresident beneficiary's share of the
30 estate or trust income which was derived from or attributable to sources
31 within this state. The amount remitted shall be allowed as a credit

1 against the Nebraska income tax liability of the beneficiary.

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

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

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

22 Sec. 15. Section 77-2734.03, Reissue Revised Statutes of Nebraska,
23 is amended to read:

24 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
25 1997, any (i) insurer paying a tax on premiums and assessments pursuant
26 to section 77-908 or 81-523, (ii) electric cooperative organized under
27 the Joint Public Power Authority Act, or (iii) credit union shall be
28 credited, in the computation of the tax due under the Nebraska Revenue
29 Act of 1967, with the amount paid during the taxable year as taxes on
30 such premiums and assessments and taxes in lieu of intangible tax.

31 (b) For taxable years commencing on or after January 1, 1997, any

1 insurer paying a tax on premiums and assessments pursuant to section
2 77-908 or 81-523, any electric cooperative organized under the Joint
3 Public Power Authority Act, or any credit union shall be credited, in the
4 computation of the tax due under the Nebraska Revenue Act of 1967, with
5 the amount paid during the taxable year as (i) taxes on such premiums and
6 assessments included as Nebraska premiums and assessments under section
7 77-2734.05 and (ii) taxes in lieu of intangible tax.

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

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

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

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

26 (5) There shall be allowed to corporate taxpayers refundable income
27 tax credits under the Nebraska Advantage Microenterprise Tax Credit Act
28 and the Nebraska Advantage Research and Development Act.

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

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

6 Sec. 16. This act becomes operative for all taxable years beginning
7 or deemed to begin on or after January 1, 2021, under the Internal
8 Revenue Code of 1986, as amended.

9 Sec. 17. If any section in this act or any part of any section is
10 declared invalid or unconstitutional, the declaration shall not affect
11 the validity or constitutionality of the remaining portions.

12 Sec. 18. Original sections 77-2717 and 77-2734.03, Reissue Revised
13 Statutes of Nebraska, and section 77-2715.07, Revised Statutes
14 Supplement, 2019, are repealed.