

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 753**

FINAL READING

Introduced by Linehan, 39; Aguilar, 35; Albrecht, 17; Armendariz, 18; Ballard, 21; Brewer, 43; Briese, 41; Clements, 2; DeKay, 40; Dover, 19; Erdman, 47; Geist, 25; Halloran, 33; Hansen, B., 16; Hardin, 48; Holdcroft, 36; Hughes, 24; Ibach, 44; Jacobson, 42; Kauth, 31; Lippincott, 34; Lowe, 37; McDonnell, 5; McKinney, 11; Moser, 22; Murman, 38; Riepe, 12; Sanders, 45; Slama, 1; von Gillern, 4; Wayne, 13; Bosh, 25; at the request of the Governor.

Read first time January 18, 2023

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-2715.07, 77-2717, and 77-2734.03, Revised Statutes Cumulative
- 3 Supplement, 2022; to adopt the Opportunity Scholarships Act; to
- 4 provide for tax credits; to harmonize provisions; to provide an
- 5 operative date; to provide for severability; and to repeal the
- 6 original sections.
- 7 Be it enacted by the people of the State of Nebraska,

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

3           Sec. 2. The Legislature finds that:

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

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

10          (3) Parents and legal guardians of limited means are less able to  
11 choose among quality educational opportunities for their children;

12          (4) Making it possible for more parents and legal guardians to be  
13 able to choose privately operated schools benefits Nebraska parents and  
14 taxpayers; and

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

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

22          (1) Department means the Department of Revenue;

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

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

27          (a) Is receiving an education scholarship for the first time and is  
28 (i) entering kindergarten or ninth grade in a qualified school or (ii)  
29 transferring from a public school at which the student was enrolled for  
30 at least one semester immediately preceding the first semester for which  
31 the student receives an education scholarship to a qualified school and

1 is entering any of grades kindergarten through twelve;

2 (b) Has previously received an education scholarship and is  
3 continuing education at a qualified school until such student graduates  
4 from high school or reaches twenty-one years of age, whichever comes  
5 first; or

6 (c) Is the sibling of a student who is receiving an education  
7 scholarship and resides in the same household as such student;

8 (4) Qualified school means any nongovernmental, privately operated  
9 elementary or secondary school located in this state that (a) is operated  
10 not for profit, (b) complies with the antidiscrimination provisions of 42  
11 U.S.C. 1981 as such section existed on January 1, 2023, (c) complies with  
12 all health and life safety laws or codes that apply to privately operated  
13 schools, and (d) fulfills the applicable accreditation or approval  
14 requirements established by the State Board of Education pursuant to  
15 section 79-318;

16 (5) Scholarship-granting organization means a charitable  
17 organization in this state that is (a) exempt from federal income  
18 taxation pursuant to section 501(c)(3) of the Internal Revenue Code of  
19 1986, as amended, and (b) certified pursuant to section 4 of this act to  
20 provide tax-credit-supported education scholarships to eligible students  
21 to assist them in attending qualified schools; and

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

25 Sec. 4. (1) An organization may apply to the department to become  
26 certified as a scholarship-granting organization under the Opportunity  
27 Scholarships Act. An organization shall obtain such certification prior  
28 to providing any education scholarships to eligible students under the  
29 act. The applicant shall provide the department with sufficient  
30 information to show:

31 (a) That the applicant is exempt from federal income taxation under

1 section 501(c)(3) of the Internal Revenue Code of 1986, as amended;

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

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

6 (d) That the applicant will provide education scholarships for  
7 eligible students without limiting education scholarship availability to  
8 only one qualified school;

9 (e) That the applicant will:

10 (i) Give first priority to:

11 (A) Eligible students who received an education scholarship from a  
12 scholarship-granting organization during the previous school year; and

13 (B) The sibling of a student who is receiving an education  
14 scholarship, so long as the sibling resides in the same household as such  
15 student;

16 (ii) Give second priority to:

17 (A) Eligible students whose household income levels do not exceed  
18 one hundred percent of the federal poverty level;

19 (B) Eligible students whose application for the enrollment option  
20 program established in section 79-234 has been denied;

21 (C) Eligible students who have an individualized education plan;

22 (D) Eligible students who are experiencing bullying, harassment,  
23 hazing, assault, battery, kidnapping, robbery, sexual offenses, threat or  
24 intimidation, or fighting at school;

25 (E) Eligible students who are in foster care; and

26 (F) Eligible students who are in a family with a parent or guardian  
27 actively serving in a branch of the armed forces of the United States or  
28 in the National Guard, or whose parent or guardian was killed serving in  
29 the line of duty;

30 (iii) Give third priority to eligible students whose household  
31 income levels exceed one hundred percent of the federal poverty level but

1 do not exceed one hundred eighty-five percent of the federal poverty  
2 level;

3 (iv) Give fourth priority to eligible students whose household  
4 income levels exceed one hundred eighty-five percent of the federal  
5 poverty level but do not exceed two hundred thirteen percent of the  
6 federal poverty level; and

7 (v) Give fifth priority to eligible students whose household income  
8 levels exceed two hundred thirteen percent of the federal poverty level  
9 but do not exceed three hundred percent of the income indicated in the  
10 income eligibility guidelines for reduced price meals under the National  
11 School Lunch Program in 7 C.F.R. part 210;

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

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

21 (2) If the applicant meets the requirements of this section, the  
22 department shall certify it as a scholarship-granting organization for  
23 tax-credit purposes under the Opportunity Scholarships Act. Such  
24 certification is subject to revocation by the department if the  
25 scholarship-granting organization subsequently fails to fulfill the  
26 requirements of this section or section 10 of this act.

27 Sec. 5. (1) An individual taxpayer who makes one or more cash  
28 contributions to one or more scholarship-granting organizations during a  
29 tax year shall be eligible for a credit against the income tax due under  
30 the Nebraska Revenue Act of 1967. Except as otherwise provided in the  
31 Opportunity Scholarships Act, the amount of the credit shall be equal to

1 whichever of the following amounts is the lowest: (a) The total amount of  
2 such contributions made during the tax year; (b) fifty percent of the  
3 income tax liability of such taxpayer for the tax year; or (c) one  
4 hundred thousand dollars. A taxpayer may only claim a credit pursuant to  
5 this section for the portion of the contribution that was not claimed as  
6 a charitable contribution under the Internal Revenue Code.

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

11 (3) The tax credit allowed under this section shall be a  
12 nonrefundable credit. Any amount of the 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 (4) The taxpayer may not designate all or any part of the  
17 contribution to a scholarship-granting organization for the benefit of  
18 any eligible student specifically identified by the taxpayer.

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

21 Sec. 6. (1) Any partnership, limited liability company, or  
22 corporation having an election in effect under subchapter S of the  
23 Internal Revenue Code of 1986, as amended, that is carrying on any trade  
24 or business for which deductions would be allowed under section 162 of  
25 the Internal Revenue Code of 1986, as amended, or is carrying on any  
26 rental activity and that makes one or more cash contributions to one or  
27 more scholarship-granting organizations during a tax year shall be  
28 eligible for a credit against the income tax due under the Nebraska  
29 Revenue Act of 1967. Except as otherwise provided in the Opportunity  
30 Scholarships Act, the amount of the credit shall be equal to whichever of  
31 the following amounts is the lowest: (a) The total amount of such

1 contributions made during the tax year; (b) fifty percent of the income  
2 tax liability of such taxpayer for the tax year; or (c) one hundred  
3 thousand dollars. A taxpayer may only claim a credit pursuant to this  
4 section for the portion of the contribution that was not claimed as a  
5 charitable contribution under the Internal Revenue Code. The credit shall  
6 be attributed to each partner, member, or shareholder in the same  
7 proportion used to report the partnership's, limited liability company's,  
8 or subchapter S corporation's income or loss for income tax purposes.

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

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

17 (4) The tax credit allowed under this section is subject to section  
18 9 of this act.

19 Sec. 7. (1) An estate or trust which makes one or more cash  
20 contributions to one or more scholarship-granting organizations during a  
21 tax year shall be eligible for a credit against the income tax due under  
22 the Nebraska Revenue Act of 1967. Except as otherwise provided in the  
23 Opportunity Scholarships Act, the amount of the credit shall be equal to  
24 whichever of the following amounts is the lowest: (a) The total amount of  
25 such contributions made during the tax year; (b) fifty percent of the  
26 income tax liability of such taxpayer for the tax year; or (c) one  
27 million dollars. A taxpayer may only claim a credit pursuant to this  
28 section for the portion of the contribution that was not claimed as a  
29 charitable contribution under the Internal Revenue Code. Any credit not  
30 used by the estate or trust may be attributed to each beneficiary of the  
31 estate or trust in the same proportion used to report the beneficiary's

1 income from the estate or trust for income tax purposes.

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

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

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

12 Sec. 8. (1) A corporate taxpayer as defined in section 77-2734.04  
13 which makes one or more cash contributions to one or more scholarship-  
14 granting organizations during a tax year shall be eligible for a credit  
15 against the income tax due under the Nebraska Revenue Act of 1967. Except  
16 as otherwise provided in the Opportunity Scholarships Act, the amount of  
17 the credit shall be equal to whichever of the following amounts is the  
18 lowest: (a) The total amount of such contributions made during the tax  
19 year; (b) fifty percent of the income tax liability of such taxpayer for  
20 the tax year; or (c) one hundred thousand dollars. A taxpayer may only  
21 claim a credit pursuant to this section for the portion of the  
22 contribution that was not claimed as a charitable contribution under the  
23 Internal Revenue Code.

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

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



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

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

21       (2) In order to be allowed a tax credit as provided by the act, the  
22 taxpayer shall make its contribution between thirty-one and sixty days  
23 after notifying the scholarship-granting organization of the taxpayer's  
24 intent to make a contribution. If the scholarship-granting organization  
25 does not receive the contribution within the required time period, it  
26 shall notify the department of such fact and the department shall no  
27 longer include such amount when calculating whether the limit prescribed  
28 in subsection (3) of this section has been exceeded. If the scholarship-  
29 granting organization receives the contribution within the required time  
30 period, it shall provide the taxpayer with a receipt for the  
31 contribution. The receipt shall show the name and address of the

1 scholarship-granting organization, the date the scholarship-granting  
2 organization was certified by the department in accordance with section 4  
3 of this act, the name, address, and, if available, tax identification  
4 number of the taxpayer making the contribution, the amount of the  
5 contribution, and the date the contribution was received.

6 (3) The department shall consider notifications regarding intended  
7 tax credit amounts in the order in which they are received to ascertain  
8 whether the intended tax credit amounts are within the annual limit  
9 provided in this subsection. The annual limit on the total amount of tax  
10 credits for calendar years 2024, 2025, and 2026 shall be twenty-five  
11 million dollars. The annual limit on the total amount of tax credits for  
12 calendar year 2027 and each calendar year thereafter shall be calculated  
13 by taking the annual limit from the prior calendar year and then  
14 multiplying such amount by (a) one hundred twenty-five percent if the  
15 intended tax credit amounts in the prior calendar year exceeded ninety  
16 percent of the annual limit applicable to that calendar year or (b) one  
17 hundred percent if the intended tax credit amounts in the prior calendar  
18 year did not exceed ninety percent of the annual limit applicable to that  
19 calendar year. The annual limit may be increased as provided in this  
20 subsection until it reaches one hundred million dollars. Thereafter, no  
21 further increases shall be allowed.

22 (4) The State Department of Education and the Department of Revenue  
23 shall publish on their respective websites information identifying the  
24 annual limit when it is increased pursuant to subsection (3) of this  
25 section.

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

30 Sec. 10. (1) For purposes of this section:

31 (a) Net revenue means the total amount of revenue received by a

1 scholarship-granting organization during a state fiscal year minus the  
2 amount of such revenue that is used or reserved for the administrative  
3 costs of such organization for the same state fiscal year;

4 (b) Revenue means all grants, donations, and contributions received  
5 by a scholarship-granting organization for the purpose of providing  
6 education scholarships; and

7 (c) State fiscal year means the period of time commencing on July 1  
8 and ending on June 30 of the following year.

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

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

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

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

29 (4) Beginning January 1, 2028:

30 (a) A scholarship-granting organization shall carry forward no more  
31 than twenty-five percent of its net revenue from one state fiscal year to

1 the following state fiscal year. Any amount carried forward shall be  
2 expended for annual or partial-year education scholarships in the  
3 following state fiscal year; and

4 (b) Any amount of net revenue remaining on June 30 of any state  
5 fiscal year that is in excess of the amount that may be carried forward  
6 under subdivision (a) of this subsection shall be used to provide  
7 education scholarships to eligible students or transferred to one or more  
8 other scholarship-granting organizations to provide education  
9 scholarships to eligible students by no later than the following  
10 September 30. Any amount of such net revenue that is not used or  
11 transferred by the following September 30 shall be remitted to the State  
12 Treasurer for credit to the General Fund. Any scholarship-granting  
13 organization receiving a transfer pursuant to this subdivision shall  
14 place the transferred funds into its scholarship account and shall  
15 separately disclose the transfer in its annual financial audit.

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

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

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

31 (4) By June 30, 2027, and by June 30 of each odd-numbered year

1 thereafter, the department shall electronically submit a report to the  
2 chairperson of the Appropriations Committee of the Legislature, the  
3 chairperson of the Education Committee of the Legislature, and the  
4 chairperson of the Revenue Committee of the Legislature. The report shall  
5 include, but not be limited to, the following:

6 (a) A review of the progress of the Opportunity Scholarships Act;

7 (b) The number of students currently wait-listed or denied from  
8 receiving an education scholarship and the reason for the wait-listing or  
9 denial;

10 (c) The dollar amount of education scholarships given by  
11 scholarship-granting organizations; and

12 (d) The demographic information of students receiving education  
13 scholarships, including, but not limited to:

14 (i) Income level;

15 (ii) Grade level; and

16 (iii) Geographic location.

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

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

26 Sec. 14. Section 77-2715.07, Revised Statutes Cumulative Supplement,  
27 2022, is amended to read:

28 77-2715.07 (1) There shall be allowed to qualified resident  
29 individuals as a nonrefundable credit against the income tax imposed by  
30 the Nebraska Revenue Act of 1967:

31 (a) A credit equal to the federal credit allowed under section 22 of

1 the Internal Revenue Code; and

2 (b) A credit for taxes paid to another state as provided in section  
3 77-2730.

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

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

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

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, the Nebraska Advantage Research  
8 and Development Act, or the Volunteer Emergency Responders Incentive Act;  
9 and

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

18 (3) There shall be allowed to all individuals as a nonrefundable  
19 credit against the income tax imposed by the Nebraska Revenue Act of  
20 1967:

21 (a) A credit for personal exemptions allowed under section  
22 77-2716.01;

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

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

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

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

5 (f) A credit to employers as provided in sections 77-27,238 and  
6 77-27,240; ~~and~~

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

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

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

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

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

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

28 (5)(a) For all taxable years beginning on or after January 1, 2007,  
29 and before January 1, 2009, under the Internal Revenue Code of 1986, as  
30 amended, there shall be allowed to each partner, shareholder, member, or  
31 beneficiary of a partnership, subchapter S corporation, limited liability



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

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

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

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

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

31 (i) Is located within an area that has been declared an extremely

1 blighted area under section 18-2101.02;

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

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

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

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

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

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

19 (8) There shall be allowed to all individuals refundable credits  
20 against the income tax imposed by the Nebraska Revenue Act of 1967 as  
21 provided in the Nebraska Higher Blend Tax Credit Act, the Nebraska  
22 Property Tax Incentive Act, and the Renewable Chemical Production Tax  
23 Credit Act.

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

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

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

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

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

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

6 Sec. 15. Section 77-2717, Revised Statutes Cumulative Supplement,  
7 2022, is amended to read:

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

29 (ii) For taxable years beginning or deemed to begin on or after  
30 January 1, 2014, the tax imposed on all resident estates and trusts shall  
31 be a percentage of the federal taxable income of such estates and trusts

1 as modified in section 77-2716, plus a percentage of the federal tax on  
2 premature or lump-sum distributions from qualified retirement plans. The  
3 additional taxes shall be recomputed by substituting Nebraska taxable  
4 income for federal taxable income and applying Nebraska rates to the  
5 result. The credits provided in the Nebraska Advantage Microenterprise  
6 Tax Credit Act and the Nebraska Advantage Research and Development Act  
7 shall be allowed as a reduction in the income tax due. A refundable  
8 income tax credit shall be allowed for all resident estates and trusts  
9 under the Angel Investment Tax Credit Act, the Nebraska Advantage  
10 Microenterprise Tax Credit Act, the Nebraska Advantage Research and  
11 Development Act, the Nebraska Higher Blend Tax Credit Act, the Nebraska  
12 Property Tax Incentive Act, and the Renewable Chemical Production Tax  
13 Credit Act. A nonrefundable income tax credit shall be allowed for all  
14 resident estates and trusts as provided in the Nebraska Job Creation and  
15 Mainstreet Revitalization Act, the New Markets Job Growth Investment Act,  
16 the School Readiness Tax Credit Act, the Affordable Housing Tax Credit  
17 Act, the Opportunity Scholarships Act, and sections 77-27,238 and  
18 77-27,240.

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 the Nebraska Advantage Research and Development Act, the Nebraska Higher  
7 Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, and the  
8 Renewable Chemical Production Tax Credit Act. A nonrefundable income tax  
9 credit shall be allowed for all nonresident estates and trusts as  
10 provided in the Nebraska Job Creation and Mainstreet Revitalization Act,  
11 the New Markets Job Growth Investment Act, the School Readiness Tax  
12 Credit Act, the Affordable Housing Tax Credit Act, the Opportunity  
13 Scholarships Act, and sections 77-27,238 and 77-27,240.

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

26 (3) The beneficiaries of such estate or trust who are residents of  
27 this state shall include in their income their proportionate share of  
28 such estate's or trust's federal income and shall reduce their Nebraska  
29 tax liability by their proportionate share of the credits as provided in  
30 the Angel Investment Tax Credit Act, the Nebraska Advantage  
31 Microenterprise Tax Credit Act, the Nebraska Advantage Research and

1 Development Act, 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 Nebraska Higher  
4 Blend Tax Credit Act, the Nebraska Property Tax Incentive Act, the  
5 Renewable Chemical Production Tax Credit Act, the Opportunity  
6 Scholarships Act, and sections 77-27,238 and 77-27,240. There shall be  
7 allowed to a beneficiary a refundable income tax credit under the  
8 Beginning Farmer Tax Credit Act for all taxable years beginning or deemed  
9 to begin on or after January 1, 2001, under the Internal Revenue Code of  
10 1986, as amended.

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

31 (5) In the absence of the nonresident beneficiary's executed

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

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

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

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

5           Sec. 16. Section 77-2734.03, Revised Statutes Cumulative Supplement,  
6 2022, is amended to read:

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

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

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

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



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

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

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

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

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

22           Sec. 17. This act becomes operative for all taxable years beginning  
23 or deemed to begin on or after January 1, 2024, under the Internal  
24 Revenue Code of 1986, as amended.

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

28           Sec. 19. Original sections 77-2715.07, 77-2717, and 77-2734.03,  
29 Revised Statutes Cumulative Supplement, 2022, are repealed.