

AMENDMENTS TO LB295

Introduced by Revenue.

1 1. Strike the original sections and insert the following new
2 sections:

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

5 Sec. 2. The Legislature finds that:

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

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

12 (3) For parents and legal guardians who are paying taxes in support
13 of public elementary and secondary schools, choosing privately operated
14 schools for their children can be a financial burden because typically
15 these parents and legal guardians will be paying twice for education
16 through tuition and taxes;

17 (4) Parents and legal guardians of limited means are less able to
18 choose among quality educational opportunities for their children;

19 (5) Making it possible for more parents and legal guardians to be
20 able to choose privately operated schools reduces publicly funded
21 educational costs and benefits Nebraska taxpayers; and

22 (6) It is in the best interests of the State of Nebraska and its
23 citizens to encourage individuals and businesses to support organizations
24 that financially assist parents and legal guardians who want to enroll
25 their children in privately operated elementary and secondary schools,
26 and such encouragement can be accomplished through the use of tax
27 credits.

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

2 (1) Department means the Department of Revenue;

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

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

7 (a) Is a dependent member of a household that, for the most recently
8 concluded calendar year before the student receives an education
9 scholarship pursuant to the act, has a gross income which does not exceed
10 two times the income indicated in the income eligibility guidelines for
11 reduced price meals under the National School Lunch Program in 7 C.F.R.
12 part 210, as such part existed on January 1, 2017; and

13 (b)(i) Is receiving an education scholarship for the first time and
14 is (A) entering kindergarten or ninth grade in a qualified school or (B)
15 transferring from a public school to a qualified school and is entering
16 any of grades kindergarten through twelve;

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

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

23 (4) Qualified school means any nongovernmental, privately operated
24 elementary or secondary school located in this state that (a) is operated
25 not for profit, (b) does not discriminate on the basis of race, color, or
26 national origin, (c) complies with all health and life safety laws or
27 codes that apply to privately operated schools, and (d) fulfills the
28 applicable accreditation or approval requirements established by the
29 State Board of Education pursuant to section 79-318;

30 (5) Scholarship-granting organization means a charitable
31 organization in this state that is (a) exempt from federal income

1 taxation pursuant to section 501(c)(3) of the Internal Revenue Code of
2 1986, as amended, and (b) certified pursuant to section 4 of this act to
3 provide tax-credit-supported education scholarships to eligible students
4 to assist them in attending qualified schools; and

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

8 Sec. 4. (1) An organization may apply to the department to become
9 certified as a scholarship-granting organization under the Opportunity
10 Scholarships Act. An organization shall obtain such certification prior
11 to providing any education scholarships to eligible students under the
12 act. The applicant shall provide the department with sufficient
13 information to show:

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

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

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

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

23 (e) That the applicant will award education scholarships to eligible
24 students based on their financial need.

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

31 Sec. 5. (1) Beginning January 1, 2019, an individual taxpayer who

1 makes one or more cash contributions to one or more scholarship-granting
2 organizations during a tax year shall be eligible for a credit against
3 the income tax due under the Nebraska Revenue Act of 1967. The amount of
4 the credit shall be equal to the total amount of such contributions made
5 during the tax year, not to exceed ten thousand dollars for taxpayers
6 whose federal filing status is married filing jointly or five thousand
7 dollars for taxpayers with any other federal filing status.

8 (2) On January 1, 2020, and on each January 1 thereafter, the
9 department shall increase the credit limits provided in subsection (1) of
10 this section by the percentage increase, if any, in the Consumer Price
11 Index for All Urban Consumers, as prepared by the United States
12 Department of Labor, Bureau of Labor Statistics, for the twelve-month
13 period ending on August 31 of the preceding year. In addition, if the
14 aggregate annual limit on tax credits provided in section 9 of this act
15 is increased by twenty percent pursuant to subdivision (3)(b) of section
16 9 of this act, the department shall increase the credit limits provided
17 in subsection (1) of this section by twenty percent.

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

23 (4) The taxpayer may not designate all or any part of the
24 contribution to a scholarship-granting organization for the benefit of
25 any eligible student specifically identified by the taxpayer. The
26 taxpayer may not claim a state income tax deduction with respect to any
27 contribution to a scholarship-granting organization if the taxpayer is
28 claiming a credit for such contribution under the Opportunity
29 Scholarships Act.

30 (5) The tax credit allowed under this section is subject to section
31 9 of this act.

1 Sec. 6. (1) Beginning January 1, 2019, any partnership, limited
2 liability company, or corporation having an election in effect under
3 subchapter S of the Internal Revenue Code of 1986, as amended, that (a)
4 is carrying on any trade or business for which deductions would be
5 allowed under section 162 of the Internal Revenue Code of 1986, as
6 amended, or is carrying on any rental activity and (b) makes one or more
7 cash contributions to one or more scholarship-granting organizations
8 during a tax year shall be eligible for a credit against the income tax
9 due under the Nebraska Revenue Act of 1967. The amount of the credit
10 shall be equal to the total amount of such contributions made during the
11 tax year, not to exceed fifty thousand dollars. The credit shall be
12 attributed to each partner, member, or shareholder in the same proportion
13 used to report the partnership's, limited liability company's, or
14 subchapter S corporation's income or loss for income tax purposes. The
15 limits on tax credits provided in section 5 of this act shall not apply
16 to any credit claimed pursuant to this section.

17 (2) On January 1, 2020, and on each January 1 thereafter, the
18 department shall increase the credit limit provided in subsection (1) of
19 this section by the percentage increase, if any, in the Consumer Price
20 Index for All Urban Consumers, as prepared by the United States
21 Department of Labor, Bureau of Labor Statistics, for the twelve-month
22 period ending on August 31 of the preceding year. In addition, if the
23 aggregate annual limit on tax credits provided in section 9 of this act
24 is increased by twenty percent pursuant to subdivision (3)(b) of section
25 9 of this act, the department shall increase the credit limit provided in
26 subsection (1) of this section by twenty percent.

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

1 (4) The taxpayer may not designate all or any part of the
2 contribution to a scholarship-granting organization for the benefit of
3 any eligible student specifically identified by the taxpayer. The
4 taxpayer may not claim a state income tax deduction with respect to any
5 contribution to a scholarship-granting organization if the taxpayer is
6 claiming a credit for such contribution under the Opportunity
7 Scholarships Act.

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

10 Sec. 7. (1) Beginning January 1, 2019, an estate or trust which
11 makes one or more cash contributions to one or more scholarship-granting
12 organizations during a tax year shall be eligible for a credit against
13 the income tax due under the Nebraska Revenue Act of 1967. The amount of
14 the credit shall be equal to the total amount of such contributions made
15 during the tax year, not to exceed fifty thousand dollars. Any credit not
16 used by the estate or trust may be attributed to each beneficiary of the
17 estate or trust in the same proportion used to report the beneficiary's
18 income from the estate or trust for income tax purposes.

19 (2) On January 1, 2020, and on each January 1 thereafter, the
20 department shall increase the credit limit provided in subsection (1) of
21 this section by the percentage increase, if any, in the Consumer Price
22 Index for All Urban Consumers, as prepared by the United States
23 Department of Labor, Bureau of Labor Statistics, for the twelve-month
24 period ending on August 31 of the preceding year. In addition, if the
25 aggregate annual limit on tax credits provided in section 9 of this act
26 is increased by twenty percent pursuant to subdivision (3)(b) of section
27 9 of this act, the department shall increase the credit limit provided in
28 subsection (1) of this section by twenty percent.

29 (3) 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 (4) The taxpayer may 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. The
6 taxpayer may not claim a state income tax deduction with respect to any
7 contribution to a scholarship-granting organization if the taxpayer is
8 claiming a credit for such contribution under the Opportunity
9 Scholarships Act.

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

12 Sec. 8. (1) Beginning January 1, 2019, a corporate taxpayer as
13 defined in section 77-2734.04 which makes one or more cash contributions
14 to one or more scholarship-granting organizations during a tax year shall
15 be eligible for a credit against the income tax due under the Nebraska
16 Revenue Act of 1967. The amount of the credit shall be equal to the total
17 amount of such contributions made during the tax year, not to exceed one
18 hundred fifty thousand dollars.

19 (2) On January 1, 2020, and on each January 1 thereafter, the
20 department shall increase the credit limit provided in subsection (1) of
21 this section by the percentage increase, if any, in the Consumer Price
22 Index for All Urban Consumers, as prepared by the United States
23 Department of Labor, Bureau of Labor Statistics, for the twelve-month
24 period ending on August 31 of the preceding year. In addition, if the
25 aggregate annual limit on tax credits provided in section 9 of this act
26 is increased by twenty percent pursuant to subdivision (3)(b) of section
27 9 of this act, the department shall increase the credit limit provided in
28 subsection (1) of this section by twenty percent.

29 (3) 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 (4) The taxpayer may 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. The
6 taxpayer may not claim a state income tax deduction with respect to any
7 contribution to a scholarship-granting organization if the taxpayer is
8 claiming a credit for such contribution under the Opportunity
9 Scholarships Act.

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

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

30 (2) In order to be allowed a tax credit as provided by the act, the
31 taxpayer shall make its contribution between thirty-one and sixty days

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

16 (3)(a) The department shall consider notifications regarding
17 intended tax credit amounts in the order in which they are received to
18 ascertain whether the intended tax credit amounts are within the annual
19 limit on the total amount of tax credits allowed. For calendar year 2019,
20 the annual limit shall be two million dollars. For calendar year 2020 and
21 each calendar year thereafter, the department shall increase the annual
22 limit by the percentage increase, if any, in the Consumer Price Index for
23 All Urban Consumers, as prepared by the United States Department of
24 Labor, Bureau of Labor Statistics, for the twelve-month period ending on
25 August 31 of the prior calendar year.

26 (b) In addition to any increase to the annual limit provided in
27 subdivision (3)(a) of this section, the department shall increase the
28 annual limit by an additional twenty percent if the intended tax credit
29 amounts in the prior calendar year exceeded ninety-five percent of the
30 annual limit applicable to that calendar year.

31 (c) In no event shall the annual limit for any calendar year exceed

1 ten million dollars.

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

6 (5) The total amount of tax credits allowed to corporate taxpayers
7 in any calendar year shall not exceed seventy percent of the annual limit
8 for such calendar year.

9 Sec. 10. (1) In order for a scholarship-granting organization to
10 remain certified under the Opportunity Scholarships Act, the scholarship-
11 granting organization shall allocate at least ninety percent of its
12 revenue for education scholarships and no more than ten percent of its
13 revenue shall be used or reserved for administrative costs.

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

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

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

1 in the most recent fiscal year.

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

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

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

14 Sec. 14. Section 49-801.01, Revised Statutes Cumulative Supplement,
15 2016, is amended to read:

16 49-801.01 Except as provided by Article VIII, section 1B, of the
17 Constitution of Nebraska and in sections 77-1106, 77-1108, 77-1109,
18 77-1117, 77-1119, 77-2701.01, 77-2714 to 77-27,123, 77-27,191, 77-2902,
19 77-2906, 77-2908, 77-2909, 77-4103, 77-4104, 77-4108, 77-5509, 77-5515,
20 77-5527 to 77-5529, 77-5539, 77-5717 to 77-5719, 77-5728, 77-5802,
21 77-5803, 77-5806, 77-5903, 77-6302, and 77-6306 and sections 3, 4, and 6
22 of this act, any reference to the Internal Revenue Code refers to the
23 Internal Revenue Code of 1986 as it exists on February 27, 2015.

24 Sec. 15. Section 77-2715.07, Revised Statutes Cumulative Supplement,
25 2016, is amended to read:

26 77-2715.07 (1) There shall be allowed to qualified resident
27 individuals as a nonrefundable credit against the income tax imposed by
28 the Nebraska Revenue Act of 1967:

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

31 (b) A credit for taxes paid to another state as provided in section

1 77-2730.

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

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

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

29 (c) A refundable credit as provided in section 77-5209.01 for
30 individuals who qualify for an income tax credit as a qualified beginning
31 farmer or livestock producer under the Beginning Farmer Tax Credit Act

1 for all taxable years beginning or deemed to begin on or after January 1,
2 2006, under the Internal Revenue Code of 1986, as amended;

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

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

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

19 (a) A credit for personal exemptions allowed under section
20 77-2716.01;

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

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

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

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

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

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

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

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

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

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

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

25 (5)(a) For all taxable years beginning on or after January 1, 2007,
26 and before January 1, 2009, under the Internal Revenue Code of 1986, as
27 amended, there shall be allowed to each partner, shareholder, member, or
28 beneficiary of a partnership, subchapter S corporation, limited liability
29 company, or estate or trust a nonrefundable credit against the income tax
30 imposed by the Nebraska Revenue Act of 1967 equal to fifty percent of the
31 partner's, shareholder's, member's, or beneficiary's portion of the

1 amount of franchise tax paid to the state under sections 77-3801 to
2 77-3807 by a financial institution.

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

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

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

22 Sec. 16. Section 77-2717, Revised Statutes Cumulative Supplement,
23 2016, is amended to read:

24 77-2717 (1)(a)(i) For taxable years beginning or deemed to begin
25 before January 1, 2014, the tax imposed on all resident estates and
26 trusts shall be a percentage of the federal taxable income of such
27 estates and trusts as modified in section 77-2716, plus a percentage of
28 the federal alternative minimum tax and the federal tax on premature or
29 lump-sum distributions from qualified retirement plans. The additional
30 taxes shall be recomputed by (A) substituting Nebraska taxable income for
31 federal taxable income, (B) calculating what the federal alternative

1 minimum tax would be on Nebraska taxable income and adjusting such
2 calculations for any items which are reflected differently in the
3 determination of federal taxable income, and (C) applying Nebraska rates
4 to the result. The federal credit for prior year minimum tax, after the
5 recomputations required by the Nebraska Revenue Act of 1967, and the
6 credits provided in the Nebraska Advantage Microenterprise Tax Credit Act
7 and the Nebraska Advantage Research and Development Act shall be allowed
8 as a reduction in the income tax due. A refundable income tax credit
9 shall be allowed for all resident estates and trusts under the Angel
10 Investment Tax Credit Act, the Nebraska Advantage Microenterprise Tax
11 Credit Act, and the Nebraska Advantage Research and Development Act. A
12 nonrefundable income tax credit shall be allowed for all resident estates
13 and trusts as provided in the New Markets Job Growth Investment Act.

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

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

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

1 return for the estate or trust for which he or she acts, whether the
2 income be taxable to the estate or trust or to the beneficiaries thereof.
3 The fiduciary shall include in the return a statement of each
4 beneficiary's distributive share of net income when such income is
5 taxable to such beneficiaries.

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

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

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

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

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

31 (7) For purposes of this section, unless the context otherwise

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

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

11 Sec. 17. Section 77-2734.03, Revised Statutes Cumulative Supplement,
12 2016, is amended to read:

13 77-2734.03 (1)(a) For taxable years commencing prior to January 1,
14 1997, any (i) insurer paying a tax on premiums and assessments pursuant
15 to section 77-908 or 81-523, (ii) electric cooperative organized under
16 the Joint Public Power Authority Act, or (iii) credit union shall be
17 credited, in the computation of the tax due under the Nebraska Revenue
18 Act of 1967, with the amount paid during the taxable year as taxes on
19 such premiums and assessments and taxes in lieu of intangible tax.

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

28 (c) For taxable years commencing or deemed to commence prior to, on,
29 or after January 1, 1998, any insurer paying a tax on premiums and
30 assessments pursuant to section 77-908 or 81-523 shall be credited, in
31 the computation of the tax due under the Nebraska Revenue Act of 1967,

1 with the amount paid during the taxable year as assessments allowed as an
2 offset against premium and related retaliatory tax liability pursuant to
3 section 44-4233.

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

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

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

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

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

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

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

29 Sec. 19. Original sections 49-801.01, 77-2715.07, 77-2717, and
30 77-2734.03, Revised Statutes Cumulative Supplement, 2016, are repealed.